

Volume: IV
Pages: 1-266
Exhibits: 52-87

COMMONWEALTH OF MASSACHUSETTS
BERKSHIRE, SS SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

COMMONWEALTH OF MASSACHUSETTS

vs. Docket No:
2011-0140

DAVID T. CHALUE,

JURY TRIAL
BEFORE THE HONORABLE C. JEFFREY KINDER

APPEARANCES:

For the **Commonwealth:**

Berkshire County District Attorney's Office
7 North Street, P.O. Box 1969, Pittsfield, MA 01202
By: DAVID F. CAPELESS, ASSISTANT DISTRICT ATTORNEY
PAUL CACCAVIELLO, FIRST ASSISTANT DISTRICT ATTORNEY
GREGORY BARRY, ASSISTANT DISTRICT ATTORNEY

For the Defendant **DAVID T. CHALUE (2011-0140):**

By: DONALD W. FRANK, ESQUIRE, FRANK LAW OFFICES, 95 State
Street, Suite 918, Springfield, MA 01103
BONNIE G. ALLEN, ESQUIRE, 39 Main Street, Suite 8,
Northampton, MA 01060
MEREDITH RYAN, ESQUIRE

Hampden Superior Court
50 State Street
Springfield, Massachusetts
April 28, 2014

ALICIA CAYODE KYLES
Official Court Stenographer
Registered Merit Reporter

I N D E X

	Witness	Direct	Cross	Redirect	Recross
1	Nicole Brooks				
2	(By Mr. Barry).....	8			60
3	(By Mr. Frank).....		68		
4	Scott Langdon				
5	(By Mr. Barry).....	74			114
6	(By Mr. Frank).....		98		116
7	Alexandra Ely				
8	(By Mr. Barry).....	119			143
9	(By Mr. Frank).....		136		
10	George Byrd				
11	(By Mr. Caccaviello).....	144			174
12	(By Mr. Frank).....		170		
13	Gary Herland				
14	(By Mr. Caccaviello).....	175			
15	William King				
16	(By Mr. Caccaviello).....	183			
17	David Brian Foley				
18	(By Mr. Barry).....	191			
19	Justina Coe				
20	(By Mr. Barry).....	208			213
21	(By Mr. Frank).....		218		
22	Timothy Rondeau				
23	(By Mr. Barry).....	219			
24	(By Mr. Frank).....		221		
25	Bryan Johnson				
	(By Mr. Caccaviello).....	226			
	(By Mr. Frank).....		232		
	William Gregory				
	(By Mr. Caccaviello).....	234			
	(By Mr. Frank).....		244		
	Michael Carriveau				
	(By Mr. Caccaviello).....	248			
	(By Mr. Frank).....		258		

1	EXHIBITS	PAGE
2	Exhibit 52.....Ruger gun.....	15
3	Exhibit 53.....photograph.....	18
4	Exhibit 54.....photograph.....	18
5	Exhibit 55.....photograph.....	18
6	Exhibit 56.....photograph.....	18
7	Exhibit 57.....Walmart surveillance video.....	22
8	Exhibit 58.....camera box.....	25
9	Exhibit 59.....Price Chopper video.....	32
10	Exhibit 60.....wallet.....	35
11	Exhibit 61.....license/Nicole Brooks.....	35
12	Exhibit 62.....Hess gas station video.....	42
13	Exhibit 63.....photograph.....	44
14	Exhibit 64.....photograph.....	45
15	Exhibit 65.....photograph.....	45
16	Exhibit 66.....photograph.....	45
17	Exhibit 67.....photograph.....	45
18	Exhibit 68.....statement/Nicole Brooks.....	51
19	Exhibit 69.....phone records/Scott Langdon.....	87
20	Exhibit 70.....statement/Scott Langdon.....	95
21	Exhibit 71.....tree trunk.....	149
22	Exhibit 72.....projectile.....	160
23	Exhibit 73.....receipts from wallet.....	162
24	Exhibit 74.....photograph of receipts.....	162
25	Exhibit 75.....white shirt.....	178

1	Exhibit 76.....photograph.....	180
2	Exhibit 77.....photograph.....	180
3	Exhibit 78.....photograph.....	187
4	Exhibit 79.....MapQuest/documents from truck.....	189
5	Exhibit C-ID...chart/S. Langdon cell records.....	201
6	Exhibit D-ID...chart/N. Brooks cell records.....	201
7	Exhibit E-ID...chart/A. Hall cell records.....	202
8	Exhibit 80.....photograph.....	228
9	Exhibit 81.....photograph.....	236
10	Exhibit 82.....Home Depot surveillance video.....	238
11	Exhibit 83.....photograph.....	243
12	Exhibit 84.....photograph.....	243
13	Exhibit 85.....tag/folding star key set.....	256
14	Exhibit 86.....folding star key set.....	256
15	Exhibit 87.....Home Depot POS journal.....	256

16

17

18

19

20

21

22

23

24

25

1 (The Court entered at 9:03 a.m.)

2 (The defendant was present.)

3 THE COURT: Thank you. Be seated, please.

4 Counsel, good morning.

5 ALL COUNSEL: Good morning, Your Honor.

6 THE COURT: I mentioned on Friday that I would like to
7 address at some time the Commonwealth's motion in limine to
8 admit the statements of Mr. Chalue at the suppression
9 hearing.

10 Mr. Frank, are you prepared to address those?

11 MR. FRANK: Judge, I have to admit I came into the
12 office both Saturday to work and then came back on Sunday to
13 deal with that motion. I was unable to locate it. I am
14 going to have to make another copy. I'd read it, but I
15 haven't read the cases underlying. I don't think it will
16 take me long, but if we can go to tomorrow morning I will be
17 ready to argue it. I am awfully sorry.

18 THE COURT: All right. I will give you until tomorrow
19 morning and we will address it then.

20 MR. FRANK: Thank you.

21 THE COURT: I also have just been handed an additional
22 motion for the issuance of a subpoena pursuant to Rule 17,
23 and this is to Keeper of Records at Souza-Baranowski. I
24 have not yet read it.

25 Perhaps you can summarize your position, Mr. Frank, and

1 tell me whether or not counsel for the institution have been
2 notified.

3 MR. FRANK: I drafted it and sent it out via email to
4 them on Saturday with the suggestion, per our discussion,
5 that it may be argued Wednesday morning to give them an
6 opportunity to appear.

7 I sent it to both Souza-Baranowski and the actual
8 Keeper of the Records at Massachusetts Partnership for
9 Correctional Health, Department of Corrections, that is
10 George Puddister who has previously filed documents in
11 regard to that.

12 THE COURT: Have you had any response to that?

13 MR. FRANK: No, but I wouldn't anticipate that, given
14 it was done on the weekend.

15 THE COURT: All right. Very well. I will plan to
16 address that on Wednesday morning based on your
17 representation.

18 Anything further from you, Mr. Frank, in terms of
19 preliminary matters?

20 MR. FRANK: I don't think so, Judge.

21 THE COURT: Mr. Capeless?

22 MR. CAPELESS: No, Your Honor.

23 THE COURT: We are in recess.

24 We will see you at 9:30.

25 (The Court exited at 9:09 a.m.)

1 (* * * * *)

2 (The Court entered at 9:37 a.m.)

3 (The defendant was present.)

4 THE COURT: Thank you. Please be seated.

5 Bring the jury in, please.

6 (Pause)

7 (The jury entered at 9:37 a.m.)

8 THE COURT: Ladies and gentlemen, good morning.

9 THE JURY: Good morning.

10 THE COURT: I hope you all had a nice weekend. We are
11 ready to resume the trial, but first let me ask the same
12 questions I asked of you last Friday. First, did any of you
13 discuss the case with anyone or overhear any discussions
14 about the case after leaving here Friday afternoon?

15 (Pause)

16 THE COURT: If so, please raise your hands.

17 (Pause)

18 THE COURT: No hands have been raised.

19 And did any of you gather any information regarding
20 this case regarding any source outside the courtroom
21 including media reports?

22 If you did, intentionally or inadvertently, please
23 raise your hand.

24 (Pause)

25 THE COURT: Again, no hands have been raised.

1 You will recall we were in the beginning stages of the
2 presentation of the Commonwealth's case.

3 Mr. Barry, you may call your next witness.

4 MR. BARRY: Thank you, Your Honor.

5 Commonwealth will call to the stand Nicole Brooks.

6 (Nicole Brooks, sworn)

7 THE COURT: Good morning, Ms. Brooks.

8 THE WITNESS: Good morning.

9 THE COURT: If I could remind you to project and keep
10 your voice up so we can all hear you. If you don't
11 understand the question, please let us know. If you do,
12 please answer only that question, please.

13 Can you do that for me?

14 THE WITNESS: Yes.

15 THE COURT: You may proceed.

16 MR. BARRY: Thank you, Your Honor.

17 **(Nicole Brooks)**

18 **DIRECT EXAMINATION BY MR. BARRY**

19 Q. First of all, ma'am, could you tell the jury your name?

20 A. My name is Nicole Brooks.

21 Q. How old are you, Ms. Brooks?

22 A. I'm 24.

23 Q. Just try to keep your voice as loud as possible.

24 Do you currently live in Massachusetts?

25 A. I do not.

1 Q. In terms of this case, do you know someone by the name
2 of Adam Hall?

3 A. Yes.

4 Q. And do you have a nickname that he went by?

5 A. Yes.

6 Q. And what would that be?

7 A. Leo.

8 Q. I'm going to show you what's been marked as Exhibit 38
9 and ask if you recognize this person?

10 A. That's him.

11 Q. When did you first meet Mr. Hall?

12 A. It was the Summer of, I believe, 2010.

13 Q. All right. How did you meet him?

14 A. At a social gathering.

15 Q. All right. And what state would that be?

16 A. In New York, I'm sorry.

17 Q. And how old were you when you met Leo?

18 A. I was 20.

19 Q. And after that first meet, did a relationship evolve
20 with Mr. Hall?

21 A. Yes.

22 Q. What kind of ever relationship?

23 A. We began dating.

24 Q. And in what month did you start dating?

25 A. Pretty much right after I had met him.

1 Q. Okay. Are we talking spring, summer?

2 A. It would have been the middle of the summer.

3 Q. And did your relationship end at some point?

4 A. Yes.

5 Q. And when did it end?

6 A. When I was incarcerated.

7 Q. And when would that be?

8 A. In August of that same year.

9 Q. Okay. Are we talking about 2010?

10 A. Yes.

11 Q. Okay. So basically the relationship just lasted the
12 summer, would that be fair to say?

13 A. Yes.

14 Q. Is that fair to say?

15 A. The man behind you is taking my photograph. It's
16 upsetting.

17 Q. Between May and August 2010, what state were you living
18 in?

19 A. New York.

20 Q. And while dating Mr. Hall, did you get a chance to meet
21 some of his friends?

22 A. Yes.

23 Q. Did you meet someone by the name of Scott Langdon?

24 A. Yes.

25 Q. And how did you meet Mr. Langdon?

1 A. Through Adam.

2 Q. All right. Did you meet someone by the time of Theresa
3 Cunigan?

4 A. I did.

5 Q. How did you meet Ms. Cunigan?

6 A. Through Adam and Scott Langdon.

7 Q. Did you meet someone named Alexandra Ely?

8 A. I did.

9 Q. And did you become aware of the relationship between
10 Mr. Hall and Ms. Ely?

11 A. Yes.

12 Q. And what was that relationship?

13 A. They were also dating.

14 Q. Okay. At the same time you were dating him?

15 A. (Indicating)

16 Q. At the time, did you know that?

17 A. No.

18 Q. Before the date of August 14, 2010, did you ever get a
19 chance to meet a David Glasser?

20 A. I never met him.

21 Q. All right. Had you ever seen Mr. Glasser before August
22 of 2010 in person?

23 A. No.

24 Q. Turning your attention to June/July of 2010, did
25 Mr. Hall ever make mention of the name David Glasser to you?

1 A. Yes.

2 Q. And where were you the first time you remember Mr. Hall
3 talking about David Glasser to you?

4 A. My home in New York.

5 Q. All right. And was anybody at the house besides you
6 and Mr. Hall?

7 A. Yes, there was another girl there.

8 Q. Do you remember her name?

9 A. Starts with a T. I always seem to forget her name.

10 Q. Okay. How was it Mr. Hall brought up David Glasser's
11 name?

12 A. He said he had a court case that involved David
13 Glasser.

14 Q. Did he say what the case was about?

15 A. Yes. He said -- he said that he had beat him up
16 because he broke into his house and stole some carburetors.

17 Q. Okay. And so he indicated the case was still pending
18 at that point?

19 A. Yes.

20 Q. During that conversation, in June/July of 2010, did
21 Mr. Hall make any mention of any plans he had involving
22 David Glasser?

23 A. Yes.

24 Q. And could you please explain -- first of all, did he
25 say why he had a plan against Mr. Glasser?

1 A. He wanted to discredit him as a witness.

2 Q. And did he tell you what the plan was at that point?

3 A. He mentioned that he wanted me to come up to
4 Massachusetts to go over to his house, to say that my ride
5 home had failed, that I didn't have a way home and have him
6 take me to Vermont where I would run in and say that he had
7 abducted me; something along those lines.

8 Q. What did you tell Mr. Hall what you thought about that
9 plan?

10 A. I told him I thought it was stupid.

11 Q. And what did you tell Hall about your willingness to go
12 along with that plan at that point?

13 A. That I didn't want to.

14 Q. What did Mr. Hall tell you?

15 A. He said, Well, things are going to be happening soon.
16 You know, I need an answer. Think on it real hard; stuff
17 like that.

18 Q. Okay. In terms of things happening soon, did he say
19 what was going to be happening soon?

20 A. The court case.

21 Q. And for the next couple of weeks, did Mr. Hall bring up
22 that plan at all?

23 A. Not for the next couple weeks.

24 Q. All right. I now want to turn your attention to the
25 days leading up to August 14, 2010. In those days, did he

1 bring up his plan in terms of discrediting David Glasser
2 again?

3 A. Yes.

4 Q. First, I want to ask you about August 11 or August 12.
5 During this time, was there a time that you were at
6 Mr. Hall's house in Peru?

7 A. Yes.

8 Q. And who were you with when you were at the house at
9 Peru during that time?

10 A. I believe Alexandra Ely was there.

11 Q. All right. And what were you and Alexandra Ely doing
12 at the Peru house?

13 A. We were moving boxes back and forth to an RV on the
14 property to the garage.

15 Q. And was Mr. Hall also present at the Peru property?

16 A. Yes.

17 Q. Did there come a point in time when the three of you
18 were outside with each other?

19 A. Yes.

20 Q. Did Mr. Hall bring you anywhere to his property?

21 A. He brought us up a road that led to a pond out back.

22 Q. And what happened when he brought you to the pond in
23 the back?

24 A. On the way he lifted up, I think it was a piece of
25 plywood, and he had a plastic bag underneath it with a gun

1 in it.

2 Q. Okay. Did he show you the gun in the plastic bag?

3 A. Yes.

4 Q. And can you explain the gun at all?

5 A. It had a wooden handle. It was a longer barrel on it,
6 a handgun.

7 Q. I'm going to show you an object and I'm going to ask if
8 you recognize this object?

9 A. That would be the gun he pulled.

10 MR. BARRY: At this point, I would like to offer this
11 as Exhibit 52, Your Honor.

12 THE COURT: Any objection?

13 MR. FRANK: No, Your Honor.

14 THE COURT: Admitted.

15 (Exhibit No. 52, Ruger handgun, marked)

16 Q. (By Mr. Barry) After he showed you the gun, do you know
17 what he did with the gun right afterwards?

18 A. I'm not positive.

19 Q. After he got the gun, did he start talking about
20 Mr. Glasser again?

21 A. Yes.

22 Q. And what did he say about Mr. Glasser?

23 A. He said that this was the time, that he wanted both of
24 mine and Alexandra's help, that he didn't want to go back to
25 jail.

1 Q. Did he mentioned if anybody else was involved in terms
2 of a plan that he had formulated?

3 A. Yes, Scott Langdon.

4 Q. What did he say about Scott Langdon?

5 A. He said he was going to have him drive or -- there was
6 a couple of instances where we spoke. Give me a second.

7 Q. That's okay.

8 (Pause)

9 Q. (By Mr. Barry) Let me ask you this, did he get into
10 much more detail at that point?

11 A. No.

12 Q. All right. Did he at least make mention of the name
13 Scott Langdon at all?

14 A. Yes.

15 Q. After generally talking about a plan involving you,
16 Alexandra Ely, and Scott Langdon against Mr. Glasser, what
17 happened to Ms. Ely?

18 A. I believe she left.

19 Q. Okay. And what did you and Mr. Hall do at that point?

20 A. I believe we went to Wells, I think that was the day we
21 went to Wells.

22 Q. Okay. First of all, when you say Wells, where is
23 Wells?

24 A. It's in upstate New York.

25 Q. And what kind of town is Wells, New York? Is it a big

1 busy town or rural town?

2 A. It's very rural.

3 Q. Is there anything in Wells, New York that is of
4 interest to you?

5 A. There's two gas stations and there's a rest stop and we
6 have our family camp up there.

7 Q. And is your family campgrounds in Wells, New York
8 itself?

9 A. Yes.

10 Q. Before this day, had you and Mr. Hall previously
11 planned a day to do a trip, go up to your family campground
12 in Wells, New York?

13 A. Yes.

14 Q. Now, while in Wells, New York with Mr. Hall, did you
15 make any trips away from the campground?

16 A. Yes.

17 Q. And please explain to the jury where you went away from
18 the campground?

19 A. We were supposed to be heading towards a place called
20 the Gorge, which is just like a creek.

21 He had me pull over at a rest stop along the side of
22 the road. I had a power steering leak in my car, we were
23 going to fill the fluid.

24 Q. Do -- in what town -- do you know what town that rest
25 stop would be?

1 A. That would still be in Wells.

2 Q. I'm going to show you four pictures, and ask if you
3 recognize what's depicted in these photographs?

4 A. That's the rest stop that we stopped at.

5 MR. BARRY: Your Honor, at this point, I ask that these
6 paragraphs be entered into evidence?

7 THE COURT: All right. Any objection?

8 MR. FRANK: No objection.

9 MR. BARRY: All right. First 53.

10 (Exhibit No. 53, photograph, marked)

11 MR. BARRY: Fifty-four.

12 (Exhibit No. 54, photograph, marked)

13 MR. BARRY: Fifty-five.

14 (Exhibit No. 55, photograph, marked)

15 MR. BARRY: Fifty-six.

16 (Exhibit No. 56, photograph, marked)

17 Q. (By Mr. Barry) Okay. So once you stopped at this rest
18 stop, showing you what's been marked as Exhibit 56, did you
19 pull over anywhere?

20 A. Off to the right, yeah.

21 Q. Okay. After you stopped your car, what if anything
22 happened?

23 A. I popped the hood to my -- I popped the hood of my car
24 and got the fluid out of my car to go put in and while I was
25 doing that he started messing with the air intake box

1 underneath my car.

2 Q. Okay. Then what happened?

3 A. He opened it and retrieved that gun.

4 Q. Okay. When you say that gun, showing you what's been
5 marked as Exhibit 52, is that the gun that you're
6 referencing?

7 A. Yes.

8 Q. Did you know that Adam Hall had placed this handgun in
9 your car before driving up to Wells, New York?

10 A. No.

11 Q. After Adam Hall took this handgun out of your vehicle,
12 what happened next?

13 A. He brought it over and he shot it into one of the
14 trees. He asked if I saw where the bullets went. He
15 started saying -- he started talking about David Glasser
16 again, and the court case.

17 Q. Okay. When -- you see how many times he fired into the
18 trees?

19 A. I believe he fired -- I believe he fired three times.

20 Q. Okay. And when he asked you to look at the trees, did
21 you see any bullet holes in any of the trees?

22 A. Just one I think.

23 Q. All right. And did he tell you why he wanted you to
24 see the tree with the bullet hole in it?

25 A. He said that he wanted me to be able to point them out

1 to the detectives when I called them to that scene. That's
2 when he got into more detail.

3 Q. All right. So when you say he got into more detail,
4 could you explain to the jury what Mr. Hall now told you was
5 his plan against Mr. Glasser?

6 A. He wanted Scott Langdon to get him, to bring him up to
7 Wells for some sort of job, and I was to be at the rest
8 stop. I was to say -- call the police and say that he tried
9 to abduct me, that he had robbed me of 800 dollars and that
10 when I fled he shot at me.

11 Q. Did you tell Mr. Hall that you would partake of this
12 plan?

13 A. I said I didn't want to.

14 Q. All right. And what did he say?

15 A. He said, he basically didn't just give me -- just
16 didn't give me an option.

17 Q. Okay. After that, where did you go?

18 A. We drove back to Massachusetts. We canceled the trip.

19 Q. Okay. Now I'm going to turn your attention to
20 August 13, 2010. Do you remember that day?

21 A. Yes.

22 Q. At some point do you remember going to Walmart?

23 A. Yes.

24 Q. And in what town was that Walmart located?

25 A. I think it's in Pittsfield.

1 Q. And did you go with anyone?

2 A. Yes.

3 Q. Who did you go with?

4 A. Adam Hall and Scott Langdon and Tracy (sic) Cunigan.

5 Q. And how did you meet up with Mr. Langdon and
6 Ms. Cunigan?

7 A. We picked them up.

8 Q. Okay. And once at Walmart, did you meet anybody else?

9 A. Alexandra Ely.

10 Q. What happened once you once you got to Walmart?

11 A. We met up with Alexandra and she gave him her credit
12 card. Scott Langdon stayed outside and the three of us went
13 in.

14 Q. All right. And once you went into Walmart, what if
15 anything did you do?

16 A. Went to the back of the store and made a few purchases.

17 Q. Do you remember what you purchased?

18 A. Adam Hall purchased a camera, I think some socks and a
19 minute card.

20 Q. Okay. At that point did you know why Adam was
21 purchasing a camera?

22 A. I thought we were just going to the store.

23 Q. Okay. Okay. And do you know why he purchased the
24 minutes, what kind of minutes?

25 A. Phone minutes.

1 Q. Did you know he was purchasing the minutes?

2 A. I assumed he was buying it for his --

3 MR. FRANK: Objection.

4 THE COURT: Sustained.

5 Q. (By Mr. Barry) Not asking you to assume anything.

6 Did you know at that point?

7 A. Not really.

8 Q. Okay.

9 MR. BARRY: Your Honor, at this point in time I would
10 like to offer into evidence the Walmart surveillance tape
11 from August 13, 2010.

12 THE COURT: Any objection?

13 MR. FRANK: No.

14 THE COURT: Admitted.

15 MR. BARRY: Fifty-seven.

16 (Exhibit No. 57, Walmart surveillance video, marked)

17 Q. (By Mr. Barry) Ma'am, I'm going to show you a video
18 clip from August 13, 2010.

19 (Whereupon, the video was viewed.)

20 MR. BARRY: All right. I'm going to pause this here.
21 Can we turn down the lights.

22 THE COURT: We're actually having difficulty with the
23 lights. I'm afraid we may lose them all together.

24 THE WITNESS: I can see it.

25 Q. (By Mr. Barry) Can you see it?

1 First of all, can you recognize who is depicted in that
2 photograph?

3 A. That would be Tracy (sic) in the back, Adam, and me in
4 front.

5 Q. Where are you?

6 A. In Walmart.

7 Q. Okay. Do you recognize if you are coming in or
8 leaving?

9 A. Think we are on our way in.

10 Q. Okay. I'm going to show you a second clip.

11 (Whereupon, the video was viewed.)

12 Q. (By Mr. Barry) I'm going to pause it and ask you if you
13 recognize the three people leaving the Walmart?

14 A. The same people as the last one.

15 Q. I'm sorry. I can't hear you.

16 A. Myself, Adam, and Tracy.

17 Q. Okay. And I'm going to show you one final clip.

18 (Whereupon, the video was viewed.)

19 Q. (By Mr. Barry) All right. Do you recognize -- is that
20 you again in the black, the red hair?

21 A. Yes.

22 Q. At this point in time, you are looking at something.
23 Can you see what you are looking at?

24 A. No.

25 Q. No? That's all right.

1 Do you appear to have something out of a box?

2 If you want to step down to make it easier.

3 A. I think it might be the camera.

4 Q. And who is next to you while you're looking at the
5 camera?

6 A. That would be Adam.

7 Q. All right.

8 (Whereupon, the video was viewed.)

9 Q. (By Mr. Barry) And that yellow thing that was just
10 placed on the counter. Do you recognize that?

11 A. Those would be the phone minutes.

12 Q. And lastly going -- who's signing the receipt right
13 there?

14 A. That would be Tracy (sic) Cunigan.

15 Q. Okay. And who just got the credit card back?

16 A. Could you rewind that?

17 Q. Sure.

18 (Whereupon, the video was viewed.)

19 THE WITNESS: Adam.

20 Q. (By Mr. Barry) Okay. And whose credit card did they
21 use.

22 A. Alexandra's.

23 Q. All right. After -- well, I will show you one more
24 object before we move on.

25 Showing you an item, do you recognize that item?

1 A. That would be the camera we purchased.

2 MR. BARRY: I ask that be marked as an exhibit.

3 MR. FRANK: No objection.

4 THE COURT: Admitted.

5 MR. BARRY: 58.

6 (Exhibit No. 58, camera box, marked)

7 MR. BARRY: I'm sorry, the camera box.

8 Q. (By Mr. Barry) After you purchased the camera, the cell
9 phone minutes, what did you and Mr. Hall and Ms. Cunigan do?

10 A. We left Walmart.

11 Q. Okay. Was there anybody outside Walmart?

12 A. Alexandra.

13 Q. All right. And where was Mr. Langdon?

14 A. Oh, Scott was outside Walmart.

15 Q. Did he wait outside the whole time?

16 A. Yes.

17 Q. And once you guys get outside what, if anything,
18 happens in terms of Mr. Langdon?

19 A. We regrouped and went to a gas station.

20 Q. Okay. And after that gas station, where did you go?

21 A. Chinese restaurant.

22 Q. All right. And either at the Chinese restaurant or
23 outside the Walmart, did Mr. Hall have any conversations
24 with Mr. Langdon that was just bought?

25 A. At Debbie Wong's.

1 Q. Is that the Chinese restaurant you went to?

2 A. Yes.

3 Q. What is the conversation at Debbie Wong's?

4 A. He said he wanted him to get a good picture of David
5 Glasser.

6 Q. Did he say why he wanted Mr. Langdon to get a
7 photograph of Mr. Glasser?

8 A. No.

9 Q. Later on that same day did there come a point in time
10 that you went to the Crossroads bar in Pittsfield?

11 A. The steps, yes.

12 Q. And who was present at the Crossroads later on that
13 day?

14 A. Scott Langdon, Adam, myself, and Alexandra.

15 Q. And did you see Scott Langdon give Mr. Hall anything
16 when you guys met up at the Crossroads later on that day?

17 A. The same camera.

18 Q. And in terms of that camera, after Mr. Hall got it, did
19 he do anything with the camera with you?

20 A. Yeah, went through the pictures that had been taken of
21 some cats and some of David Glasser, and he was showing all
22 of us.

23 Q. Did Mr. Hall tell you why he was showing you
24 photographs of Mr. Glasser?

25 Did he say he had some purpose in showing you some

1 photographs of Mr. Glasser?

2 A. I believe he said he wanted me to note what he looked
3 like, to memorize what he looked like.

4 Q. For any particular reason?

5 A. I can't remember his exact words.

6 Q. Okay. At any point did he make any reference as to why
7 you would need to know what David Glasser looks like?

8 A. I mean he did, but I'm not sure if it was at that
9 particular moment.

10 Q. Whenever he said something to you about Mr. Glasser,
11 what did he say.

12 A. That it was all involving the pending court case --

13 Q. All right.

14 A. -- against him.

15 Q. I'm going to show you what's been marked Exhibit 3. Do
16 you recognize the person depicted in the photograph?

17 A. That's David Glasser.

18 Q. Before seeing the image of David Glasser on the camera,
19 did you know what David Glasser looked like?

20 A. No.

21 Q. At some point did you pick David Glasser out of a photo
22 lineup?

23 A. Yes.

24 Q. How were you able to pick Mr. Glasser out of a photo
25 lineup?

1 A. Because of the pictures he showed me.

2 Q. And did Mr. Hall indicate to you that was one of the
3 reasons, he was showing you the photographs?

4 A. Yes.

5 Q. And in addition to showing you a photo of David
6 Glasser, did Mr. Hall give you any more information about
7 David Glasser?

8 A. Yeah. He talked about how he spoke, he talked about
9 his stature, his size.

10 Q. Okay.

11 A. He described --

12 Q. Anything about any vehicles he had?

13 A. Yes, he described his vehicle that he had a back
14 taillight out, you know, it had tape over it. He said --
15 gave me the license plate number, what color it was.

16 Q. Did he tell you what kind of vehicle it was?

17 A. It was a pickup truck.

18 Q. Okay. In terms of giving you this information, did he
19 tell you why he was telling you what kind of truck
20 Mr. Glasser was driving and the license plate number it was?

21 A. He wanted me to tell the police this.

22 Q. Okay. Did he tell you more than once the type of
23 vehicle Mr. Glasser had and the license plate?

24 A. Yes, he did.

25 Q. Do you still remember the license plate?

1 A. I do.

2 Q. What was his license plate?

3 A. 3BP990.

4 Q. How is it that you know Mr. Glasser's license plate?

5 A. Because Adam told it to me and had me repeat it over
6 and over again.

7 Q. And he eventually wanted you to tell who this
8 information?

9 A. The police.

10 Q. During this time while at the Crossroads bar, did he
11 talk about the plan again, about setting up Mr. Glasser?

12 A. He did.

13 Q. Can you explain to the jury what further information he
14 gave about the plan to both you and Mr. Langdon at that
15 point?

16 A. He said that Scott was going to tell Glasser that he
17 had a job up in Wells, New York; could he take him up there.
18 And said that he was going to give him some money to pay him
19 with, and that I was going to be up in Wells already, and I
20 was going to wait at that rest stop. And, basically, that
21 he was going to put the gun in David Glasser's vehicle,
22 along with my personal objects to frame him.

23 Q. Okay. Anything else?

24 (Pause)

25 Q. (By Mr. Barry) Were you supposed to go to the rest stop

1 that you pointed out in Exhibit 56? Were you supposed to go
2 there at some point?

3 A. Yes. Yes.

4 Q. When were you supposed to go there?

5 A. Once I saw that Scott and Glasser were in the town of
6 Wells at the gas station.

7 Q. And what, if anything, were you to do once you got to
8 that rest stop?

9 A. I was to put my hood up in my car like I was filling
10 the power steering fluid, and I was to wait a little while
11 and then I was to leave and call the police.

12 Q. Okay. And what were you supposed to tell the police?

13 A. That I was filling my power steering fluid and that he
14 pulled up and --

15 Q. When you say "he" who do you mean?

16 A. I'm sorry, David Glasser. And that David Glasser
17 pulled up, I was to be able to describe his vehicle, and I
18 was to -- I was to be able to describe his vehicle and say
19 that he stole \$800 from me, and that he tried to grab my arm
20 and when he did, I pulled away, ran down the hill, and that
21 while my back was turned he had shot at me.

22 Q. Okay. And were you supposed to point out any trees in
23 the rest stop area?

24 A. I was supposed to point out where he shot those bullets
25 into the tree.

1 Q. And in terms of robbing you, did he tell you why he
2 wanted you to say \$800?

3 A. It would make it a more severe charge if he were to be
4 charged with it because it was over 500.

5 Q. Okay. And all of this was supposed to happen in New
6 York?

7 A. All of this was to happen in New York.

8 Q. And at this point, did you want to do this plan for
9 Mr. Hall?

10 A. No. No.

11 Q. And did you tell Mr. Hall this?

12 A. Yes.

13 Q. And what did he tell you?

14 A. Same thing he told me all along, that it wasn't really
15 an option.

16 Q. Next, I want to draw your attention to August 14,
17 itself, the next day, August 14, 2010, at approximately
18 11:00 a.m.

19 Do you remember doing anything or going anywhere?

20 A. On August 14 you said?

21 Q. Yeah, August 14, the day of the actual incident with
22 Mr. Glasser.

23 A. Alexandra and I drove to meet Scott Langdon at the
24 request of Adam.

25 Q. Okay. Before you did that, in the morning, did you

1 stop anywhere; any food stores or anything like that?

2 A. I think that we went to Price Chopper because he didn't
3 have enough money to give Scott, so he asked for my
4 paycheck.

5 Q. All right. So did you go into Price Chopper on
6 August 14?

7 A. Yes.

8 Q. And was that at approximately 11 o'clock in the
9 morning?

10 A. Yeah.

11 MR. BARRY: At this point, Your Honor, I would like to
12 offer into evidence the Price Chopper video.

13 THE COURT: Admitted.

14 MR. BARRY: That would be 59.

15 MR. FRANK: No objection.

16 (Exhibit No. 59, Price Chopper video, marked)

17 Q. (By Mr. Barry) Ma'am, I'm going to show you what has
18 been marked into evidence as Exhibit 59 and draw your
19 attention to the screen.

20 (Whereupon, the video was viewed.)

21 Q. (By Mr. Barry) I will pause this here and ask you if
22 you recognize the person walking in Price Chopper on
23 August 14 at approximately 11 o'clock?

24 A. That's me.

25 MR. BARRY: Okay. And second clip.

1 (Whereupon, the video was viewed.)

2 Q. (By Mr. Barry) Again, I ask you if you recognize who's
3 leaving the store a little after 11 o'clock?

4 A. That's me.

5 (Whereupon, the video was viewed.)

6 Q. (By Mr. Barry) Lastly, I ask you if you recognize the
7 person right there doing a transaction?

8 A. That's me.

9 Q. Okay. And approximately, are you buying something
10 right now?

11 A. A pack of cigarettes.

12 Q. Okay. And when you bought that pack of cigarettes, did
13 you get a receipt in return for purchasing those cigarettes?

14 A. Yes.

15 Q. Okay. And does that occur to be happening right now on
16 the screen?

17 (Whereupon, the video was viewed.)

18 A. Yes.

19 Q. (By Mr. Barry) Okay. After you purchased those
20 cigarettes, did you keep that receipt?

21 A. I did.

22 Q. After you left the Price Chopper, did you meet up with
23 anyone?

24 A. Yes.

25 Q. Who was outside the Price Chopper waiting for you?

1 A. Adam.

2 Q. Where, if anywhere, did you go after going to the Price
3 Chopper?

4 A. I believe we went back to Peru.

5 Q. Okay. And did you get any items while you were at Peru
6 at that point that you would later give someone else?

7 A. Yeah, GPS.

8 Q. Okay.

9 A. And my wallet.

10 Q. All right. After you went to Peru and retrieved the
11 GPS and you had the wallet, where did you go next?

12 A. Down near the Crossroads bar in Pittsfield.

13 Q. Did you meet up with anybody once you got to the
14 Crossroads in Pittsfield?

15 A. Well, Alexandra had driven with me, but we met up with
16 Scott Langdon.

17 Q. Okay. When you met up with Scott Langdon, did you give
18 him anything?

19 A. I believe it was a brown paper bag.

20 Q. Okay. What, if anything, was in the brown paper bag?

21 A. It would have been my wallet and the GPS unit.

22 Q. Okay. In terms of your wallet, I'm going to show you
23 an item, ask if you recognize that item?

24 A. That's my wallet.

25 Q. And is this the same item you gave to Mr. Langdon?

1 A. Yes.

2 MR. BARRY: I ask this be marked as Exhibit 60.

3 MR. FRANK: No objection.

4 THE COURT: Admitted.

5 (Exhibit No. 60, wallet, marked)

6 Q. (By Mr. Barry) And in that wallet, did you have any
7 identification?

8 A. Yes.

9 Q. I show you an item and ask if you recognize that item?

10 A. It's my New York State driver's license.

11 Q. And was that license inside the wallet you gave
12 Mr. Langdon?

13 A. Yes.

14 Q. I ask it be marked as Exhibit 61.

15 MR. FRANK: No objection.

16 THE COURT: Admitted.

17 (Exhibit No. 61, license/Nicole Brooks, marked)

18 Q. (By Mr. Barry) Was it intentional for you to have your
19 license inside the wallet?

20 A. Yes.

21 Q. And whose idea was that?

22 A. Adam's.

23 Q. Why was it you needed your license inside the wallet?

24 A. To show it was mine and that he had possession of my
25 things.

1 Q. Okay. And in terms of -- did you have a lot of money
2 in the wallet or no?

3 A. I had no money in the wallet.

4 Q. Was that intentional?

5 A. Yes.

6 Q. Whose idea was that?

7 A. Adam's.

8 Q. And what was his idea for not having money in the
9 wallet?

10 A. That he had spent it on drugs.

11 Q. After you gave those two items, the GPS and the brown
12 bag that -- containing the wallet and license to
13 Mr. Langdon, where did you go?

14 A. Went back to the Peru property.

15 Q. All right. And after going to the Peru property, did
16 you go any place else? Did you meet up with Mr. Hall at
17 all?

18 A. Yes. He was at a garage, a white garage in Pittsfield.

19 Q. And when you met up with Mr. Hall, who was present at
20 that point?

21 A. Alexandra was.

22 Q. So was it you, Alexandra, and Mr. Hall?

23 A. Yeah.

24 Q. Did Mr. Hall start talking about the plan again?

25 A. Yes.

1 Q. Did he go over details with you?

2 A. Yes.

3 Q. What details did he go over with you?

4 A. How the driving arrangement would be when we left, that
5 everything was all set.

6 Q. Did I -- I'm sorry, did he check to see if you could
7 remember Mr. Glasser's vehicle?

8 A. Yes.

9 Q. Did he check to see if you could remember Mr. Glasser's
10 license plate?

11 A. Yes.

12 Q. What happened next?

13 A. Alexandra and I had to drive back out to take care of
14 the dogs and we came back and then we all left and went to
15 Wells, New York.

16 Q. And when you say "we all left" who went?

17 A. I, in a separate vehicle. Scott Langdon had enticed
18 David Glasser to bring him there, they had left first. Then
19 it was --

20 Q. Did you see Mr. Glasser and Mr. Langdon leave?

21 A. I did not.

22 Q. Okay. What happened next?

23 A. I left at the direction of Adam shortly after, and then
24 he was to follow me, I believe was the order.

25 Q. What kind of vehicle were you driving, do you remember?

1 A. I was driving a red Hyundai Elantra.

2 Q. Do you remember what kind of vehicle Mr. Hall was in?

3 A. That was silver SUV. It was Alexandra's.

4 Q. And was Mr. Hall with anyone as he drove?

5 A. Alexandra.

6 Q. Okay. And where did you and Mr. Hall and Ms. Ely drive
7 to?

8 A. We drove to Wells, New York.

9 Q. And on your way to Wells, New York did you see
10 Mr. Glasser and Mr. Langdon at all or the vehicle they are
11 in?

12 A. On the highway.

13 Q. Okay. They also were traveling in that direction?

14 A. Yes.

15 Q. And when you say the vehicle that they are in, showing
16 you what's been marked Exhibit 4, did do you recognize that
17 vehicle?

18 A. That would be David Glasser's vehicle.

19 Q. Okay. And was this the vehicle that Mr. Glasser and
20 Mr. Langdon were driving up to Wells, New York in?

21 A. Yes.

22 Q. Now, as you drove up in separate vehicles, did you and
23 Mr. Hall have any contact with each other?

24 A. Yes.

25 Q. And how was that?

1 A. By cell phone.

2 Q. Okay. And do you know if he was always using his phone
3 when he was calling you?

4 A. He sometimes used Alexandra's to call me.

5 Q. And in terms of cell phone you were using, at some
6 point did the police learn your cell phone number?

7 A. They did.

8 Q. And in terms of your cell phone, was this in your name?

9 A. It was not.

10 Q. And whose name was it?

11 A. It was in my father's name.

12 Q. I'm going to show you what's been marked as Exhibit 36.
13 And looking at Exhibit 36, does that appear to be a record
14 of the cell phone you were using at the time?

15 A. Yes.

16 Q. Okay. And it was in -- I'm sorry, your dad's name was
17 what?

18 A. Donald Brooks.

19 Q. The number was 878-6170?

20 A. Yes.

21 Q. Do you remember any calls you had between Mr. Hall
22 and -- between Mr. Hall and yourself as you were driving up
23 to Wells, New York?

24 A. Yes.

25 Q. Can you explain that to the jury?

1 A. He was trying to find out if I could see them, which at
2 the time I couldn't. He eventually said they weren't sure
3 if they had gone too far, where they were, so Scott was
4 going to be calling me, and he pretended that I was his
5 boss' daughter to get directions.

6 Q. Once you got further into New York did you receive
7 another phone call from Mr. Hall?

8 A. Yes.

9 Q. And what was this phone call about?

10 A. He wanted me to pull over at a, I think it was a Hess
11 station on Rt. 30.

12 Q. And did you pull over to that Hess station?

13 A. Yes.

14 Q. When you pulled over to that Hess station, did you see
15 any vehicles that you recognized?

16 A. David Glasser's vehicle was at the back of the gas
17 station.

18 Q. Now, in that phone conversation with Mr. Hall, where he
19 asked you to pull into that Hess station on Rt. 30, did he
20 give you any instructions?

21 A. He told me to reach under my passenger seat.

22 Q. Okay. And did you -- once you pulled into the gas
23 station, reach under your passenger seat?

24 A. Yes.

25 Q. And what was present under your passenger seat once you

1 got there?

2 A. That same gun.

3 Q. Okay. And when you say "that same gun", it's the same
4 gun I showed you earlier marked as Exhibit 52?

5 A. Yes.

6 Q. And was this gun by itself or with anything in terms of
7 packaging?

8 A. It was in a plastic bag.

9 Q. All right. Was there anything else besides a plastic
10 bag?

11 A. I didn't see what it was.

12 Q. Was the gun -- was the gun wrapped in anything, I guess
13 is my question?

14 A. Yeah, it would have been in some sort of fabric. I
15 didn't open the bag.

16 Q. Once with you stopped at the Hess gas station and
17 retrieved the gun, where did you put it?

18 A. In a pink backpack.

19 Q. Okay. Did Hall give you any instructions what you were
20 supposed do with that gun?

21 A. He told me that I was to give it to Scott, who was in
22 the store.

23 Q. Did the Hess gas station have a convenience type store
24 connected to it?

25 A. Yeah.

1 Q. Did you put the gun in your backpack?

2 A. I did.

3 Q. Once you went inside the Hess, the gas station, what if
4 anything happened?

5 A. Scott Langdon was in there, and he told me to put it
6 behind the garbage can in the bathroom out back. It was a
7 unisex bathroom I believe.

8 Q. Did you try to give him the gun inside the Hess gas
9 station at first?

10 A. I -- yeah, I opened my bag too. I don't know.

11 Q. It was at that point Scott Langdon told you to do
12 something else?

13 A. Yeah, that's when he told me to put it in the restroom
14 behind the garbage can.

15 MR. BARRY: At this point, Your Honor, I would like to
16 offer in evidence the Hess gas station video.

17 MR. FRANK: No objection.

18 THE COURT: Admitted.

19 MR. BARRY: Exhibit 62.

20 (Exhibit No. 62, Hess gas station video, marked)

21 Q. (By Mr. Barry) Ma'am, I'm going to ask to draw your
22 attention to a surveillance video of the Hess gas station on
23 August 14, 2010 around 3 o'clock.

24 (Whereupon, the video was viewed.)

25 Q. (By Mr. Barry) Do you recognize what's depicted there?

1 Is that an area of the Hess gas station?

2 (Whereupon, the video was viewed.)

3 THE WITNESS: That's the back corner of the gas
4 station.

5 Q. (By Mr. Barry) Is that you?

6 A. Yeah.

7 Q. And that red bag, is that your backpack?

8 A. Yeah.

9 Q. Right there, what are you doing?

10 A. Opening the backpack.

11 Q. Okay. And what was your purpose in opening the
12 backpack?

13 A. I was just going to give it to him.

14 Q. When you say "it", what do you mean by it?

15 A. The gun that was under my passenger seat.

16 Q. Okay. And the gun, was it inside that white fabric
17 material you earlier mentioned?

18 A. It's in a bag, yeah.

19 Q. Showing you a second clip from the Hess gas station.

20 (Whereupon, the video was viewed.)

21 Q. (By Mr. Barry) It's a little choppy, but do you
22 recognize the person on the left?

23 A. That would be me.

24 Q. And who is this next to you?

25 A. That would be Scott Langdon.

1 Q. Okay. In terms of Scott Langdon, showing you one final
2 video, the person at the counter there, in that greenish
3 shirt do you recognize that person?

4 (Whereupon, the video was viewed.)

5 THE WITNESS: That's Scott Langdon.

6 Q. (By Mr. Barry) In terms of that video footage was a
7 little choppy, I want to show you some still photographs.

8 First, I want to show you this photograph and ask you
9 if you recognize what's depicted in that photograph?

10 A. It's me looking into my backpack.

11 Q. Okay.

12 MR. BARRY: I ask this be marked as an exhibit.

13 MR. FRANK: No objection to the following exhibits,
14 Your Honor.

15 THE COURT: All right. All of them will be admitted
16 when offered.

17 (Exhibit No. 63, photograph, marked)

18 Q. (By Mr. Barry) And earlier you mentioned a person in
19 the green shirt. Do you recognize who's depicted in that
20 photograph?

21 A. Scott Langdon.

22 Q. Again, does this appear to be a still from the video
23 footage we saw earlier?

24 A. Yes.

25 MR. BARRY: I ask this to be marked as Exhibit 64.

1 (Exhibit No. 64, photograph, marked)

2 Q. (By Mr. Barry) Does this appear to be you and
3 Mr. Langdon talking to each other inside the Hess gas
4 station on August 14th, on the video?

5 A. Yes.

6 MR. BARRY: All right. This will be 65.

7 (Exhibit No. 65, photograph, marked)

8 Q. (By Mr. Barry) This again appears to be Mr. Langdon
9 from the video?

10 A. Yes.

11 MR. BARRY: Sixty-six.

12 (Exhibit No. 66, photograph, marked)

13 Q. (By Mr. Barry) And, lastly, does this appear to be you
14 from a video still inside the Hess gas station on August 14,
15 2010?

16 A. Yes.

17 MR. FRANK: I ask this be marked as Exhibit 67.

18 (Exhibit No. 67, photograph, marked)

19 Q. (By Mr. Barry) After you leave out the Hess gas
20 station, do you go to the bathroom?

21 A. Yes.

22 Q. And what do you do there?

23 A. I place the bag behind the garbage can as instructed.

24 Q. Okay. The bag that contained the gun?

25 A. Yes.

1 Q. And did it have anything else besides the gun? Your
2 wallet?

3 A. Yeah --

4 Q. Or had you previously given that to Mr. Langdon?

5 A. I -- I'm sorry. I either gave it to him with the
6 GPS -- I had said earlier I gave it to him with the GPS but,
7 in fact, I had given it to him with the backpack, sorry.

8 Q. Okay. At some point you gave Mr. Langdon both the gun
9 and the wallet though?

10 A. Yes.

11 Q. What do you do after you leave that -- after you leave
12 the gun in the bathroom gas station?

13 A. I drove off.

14 Q. Where did you go?

15 A. To finish the trip to Wells, New York.

16 Q. And where did you go to in Wells, New York?

17 A. I went to a laundromat parking lot which was across the
18 street from the gas station where Scott was directing David
19 Glasser to.

20 Q. Okay. And what happened next?

21 A. I waited there until they pulled up.

22 Q. And what happened -- when you say "they" who pulled up?

23 A. David Glasser and Scott Langdon.

24 Q. All right. Then what happened?

25 A. They talked for a little while and Scott Langdon got

1 out of the vehicle. David Glasser turned around and went
2 back the way he came down Rt. 30.

3 Q. What did you do then?

4 A. I, as instructed, drove to the rest stop on Rt. 30,
5 that you showed me a picture of.

6 Q. And once you got to the rest stop, what, if anything,
7 did you do?

8 A. I opened my hood and put more power steering fluid in
9 it.

10 Q. Did you go into the woods at all?

11 A. Yes.

12 Q. And what was the purpose of that?

13 A. Adam had told me he wanted me to make sure there was a
14 trail in case the -- in case the New York State police were
15 to go down and look, they'd see where I had run.

16 Q. Did you walk at all near towards the tree that he fired
17 into earlier?

18 A. I did.

19 Q. And while you were at the rest stop, did Mr. Hall stop
20 by at all?

21 A. He did.

22 Q. All right. And when he stopped by, did you have any
23 conversations with him?

24 A. Yes, I did.

25 Q. And what was that?

1 A. I told him again that I didn't want to be a part of any
2 of this, and he said that I am just as guilty as everyone
3 else now and that I better just do what I have to do.

4 Q. Did he leave at that point?

5 A. Him and Alexandra left.

6 Q. And what were you supposed to do next?

7 A. I -- that's actually when he had me run down into the
8 woods, but I was supposed to leave after doing that and go
9 to the gas station in town and call the New York State
10 Troopers.

11 Q. Did you go to the gas station and call the police?

12 A. I did not.

13 Q. Where did you go?

14 A. I went to the house of some people that used to be good
15 friends of ours.

16 Q. And you got to your friend's house, did you act upset?

17 A. I was upset, so yeah, I acted upset.

18 Q. Okay. And did you then contact the police?

19 A. Yes.

20 Q. And did you then tell the police the story that
21 Mr. Hall told to you tell the police involving what
22 Mr. Glasser allegedly did to you?

23 A. Every detail he wanted me to.

24 Q. And did the police then come to speak to you?

25 A. They did.

1 Q. And after the New York State Police spoke to you, did
2 they bring you anywhere?

3 A. They brought me to the scene of the alleged crime.

4 Q. Did they have you do anything at the rest stop area of
5 the scene?

6 A. They had me do a walk through of the scene.

7 Q. After explaining to the police the story that you
8 indicated, where did you go after talking to the police that
9 night?

10 A. I went back to our friend's house.

11 Q. That next day, did the police ask you to come to the
12 station at all?

13 A. They did.

14 Q. And for what purpose did they have you come to the
15 station?

16 A. They wanted me to pick David Glasser out of a photo
17 array.

18 Q. And were you able to pick out -- did you tell the
19 police you knew the name of the person who tried to -- who
20 robbed you and tried to abduct you?

21 A. No.

22 Q. Were -- did you give them a description, though, of the
23 pickup truck of the person who robbed and abducted you or
24 tried to abduct you?

25 A. Yes, and the license plate.

1 Q. And based upon that, the next day, they had you look at
2 a photo array?

3 A. Yes.

4 Q. And were you able to pick Mr. Glasser out of that photo
5 array?

6 A. I was.

7 Q. And how were you able to pick out Mr. Glasser from that
8 photo array if you had never seen him in person before?

9 A. From the photos that Scott Langdon took with the camera
10 that Adam bought to take the pictures with.

11 Q. And when you were at the police station that day, did
12 you give the police a written statement?

13 A. I did.

14 Q. Showing you a document.

15 (Pause)

16 MR. BARRY: I will offer it after I show it to her.

17 Q. (By Mr. Barry) Showing you a document, does this appear
18 to be your signature?

19 A. Yes.

20 Q. Does this appear to be the statement that you gave to
21 New York State Police on the day you went to pick out
22 Mr. Glasser from the photo array?

23 A. Yes.

24 MR. BARRY: I ask this be marked as an exhibit.

25 MR. FRANK: No objection.

1 THE COURT: Admitted.

2 MR. BARRY: Sixty-eight.

3 (Exhibit No. 68, statement/Nicole Brooks, marked)

4 Q. (By Mr. Barry) In terms of what's been marked Exhibit
5 68, in that statement you gave to New York Police on that
6 day, is any of that statement true?

7 A. No.

8 Q. Who gave you the information to give this type of
9 statement to the New York State Police?

10 A. Adam Hall did.

11 Q. And for what reason did Mr. Hall want you to give that
12 statement to New York State Police?

13 A. So that David Glasser would be arrested and it would,
14 hopefully, discredit him as a witness and the upcoming court
15 case.

16 Q. Now, the night of August 14, after you met with the
17 police and gave that statement and did the photo array, did
18 Mr. Hall talk to you again on the phone?

19 A. Well, there was no cell service. I believe I attempted
20 to call him.

21 Q. Well, let me ask you this, at any point did Mr. Hall
22 give you any further instructions in terms of keeping in
23 contact within with the New York State Police?

24 A. Oh, yes. He said that he wanted me to continue calling
25 them, so that I could give him updates. He wanted me to

1 have my family call the troopers and act appalled that this
2 man hadn't been arrested yet and what was going on and he
3 became frantic.

4 Q. Did you do that over the next day or two?

5 A. I did call and I kept checking in.

6 Q. Finally on August 27, 2010, did a New York State Police
7 ask you to come to the station?

8 A. Yes.

9 Q. And for what reason did they ask you to come down to
10 the station?

11 A. To identify my wallet.

12 Q. At that point do you know whether or not Mr. Glasser
13 had been arrested?

14 A. I think he had been arrested at that point.

15 Q. Were you still maintaining your lie with the New York
16 State Police though about what occurred?

17 A. Yeah.

18 Q. And what happened once you got to the police station on
19 August 27?

20 A. I was confronted with the truth of what actually
21 happened.

22 Q. Who confronted you?

23 A. Lieutenant Foley and an officer from, I don't remember
24 which department he was with, but his last name was Zanolli.

25 Q. In terms of Mr. Foley, do you know in which state he

1 was a police officer?

2 A. Massachusetts.

3 Q. In terms of confronting you, with what did they
4 confront you with?

5 A. Footage from -- no, it was a picture. I believe they
6 had -- and they told me that they knew that I knew Adam,
7 that they had found that receipt and it was the picture from
8 Price Chopper that they showed me, they just basically knew
9 everything already.

10 Q. At some point did they confront you with the cell phone
11 records?

12 A. Yes.

13 Q. And did those cell phone records show calls between you
14 and Adam Lee Hall as you drove up to Wells, New York?

15 A. They did.

16 Q. And even with the evidence they presented you with, did
17 you still maintain your lie?

18 A. Yeah.

19 Q. Would you even admit you knew Adam Hall at that point?

20 A. No.

21 Q. Would you admit that you knew Scott Langdon?

22 A. I think I did.

23 Q. Would you say if Hall and Ely were involved in any way?

24 A. I did not.

25 Q. Did the police end the interview at that point when you

1 wouldn't admit even knowing Mr. Hall?

2 A. Yes.

3 Q. Did you end up getting some criminal charges in New
4 York?

5 A. Yes.

6 Q. Do you know what for?

7 A. Filing a false reporting of a record; there were quite
8 a few.

9 Q. Were you, lack of better word, were you booked for
10 that?

11 A. Yes.

12 Q. Were you brought to a New York jail?

13 A. Yes.

14 Q. While going to that New York jail, did you tell the
15 police you wanted to change your story?

16 A. Yes.

17 Q. Did you tell the police some of the truth at that
18 point?

19 A. Very little of the truth.

20 Q. At some point, did you fully confess as to what had
21 occurred and what Adam Hall had told you to do?

22 A. Yes.

23 Q. And when was that?

24 A. That was when I was incarcerated in Berkshire County
25 Correctional Facility.

1 Q. Was that in Massachusetts, Berkshire County?

2 A. Yes.

3 Q. How did you get in New York to Massachusetts?

4 A. I was extradited.

5 Q. And despite -- did you fully confess in terms of
6 everything that had occurred?

7 A. Yes.

8 Q. And despite that confession, were you still charged and
9 indicted in Massachusetts for what had occurred?

10 A. Yes.

11 Q. And do you know -- do you still have charges pending
12 against you?

13 A. I do.

14 Q. Do you know what charges you have pending against you?

15 A. Yes.

16 Q. What would those be?

17 A. Conspiracy, falsifying business records, intimidation
18 of a witness, and use of firearms in the commission of a
19 felony.

20 Q. And did you actually testify at the Grand Jury about
21 those indictments?

22 A. I did.

23 Q. Despite having those open charges, have you willingly
24 testified today?

25 A. Yes.

1 Q. And have you been made any threats or promises by my
2 office or the police in terms of your testimony here today?

3 A. No.

4 Q. In other words, have you cut any deals?

5 A. No.

6 Q. Despite that, are you hoping by testifying today you
7 will be given some consideration in your open case?

8 A. Anybody would, yes.

9 Q. Two last things, ma'am.

10 Once with Mr. Hall, did he ever mention the name of
11 either David Chalue or Caius Trash Veiovis?

12 A. He didn't mention their names. He did mention, I guess
13 his name is Veiovis.

14 Q. What did he mentioned about him?

15 A. Something about a --

16 MR. FRANK: Objection.

17 THE COURT: Basis of your objection?

18 MR. FRANK: I think we're going to hearsay.

19 THE COURT: I will hear you at sidebar, please.

20 Bear with us, ladies and gentlemen.

21

22

23

24

25

1 (Beginning of Sidebar Discussion)

2 THE COURT: Mr. Barry, what do you expect the answer
3 will be?

4 MR. BARRY: She will essentially say, Your Honor, that
5 Mr. Hall told her that if he ever was in trouble and need
6 help he knew a guy with horns in his head or something like
7 that, and he was a guy to go to. And this would be offered
8 for the state of mind of his plan, that he would use this
9 individual if he ever needed to do something further for his
10 plan.

11 THE COURT: All right. Mr. Frank?

12 MR. FRANK: Two objections, one is there is some
13 hearsay involved in that. Second part of this is it is not
14 further business of any conspiracy in relation to either
15 this plan nor the charge for which my client stands.

16 THE COURT: Well, I don't hear it being offered as
17 joint venture hearsay. What Mr. Barry has suggested was not
18 being offered for the truth of its content but to establish
19 Mr. Hall's state of mind, therefor would not be hearsay and
20 I accept that explanation and overrule the objection, but
21 your objection is noted.

22 MR. FRANK: Judge, while we are up here, I think we
23 will have another opportunity, but Ms. Allen has a court
24 date -- court hearing at/about during the next witness or
25 so. I would like to switch out Ms. Allen with Ms. Ryan at

1 counsel table.

2 THE COURT: You may certainly do that. Would it be
3 convenient to do it at break? When do you have to be there?

4 MS. ALLEN: That's fine, Judge. I'm going to Boston.

5 (End of Sidebar Discussion)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE COURT: You may proceed.

2 MR. BARRY: Thank you, Your Honor.

3 Q. (By Mr. Barry) In terms of this person Veiovis, what
4 did Mr. Hall tell you?

5 A. He mentioned a guy that files his teeth and that he was
6 a bad ass mother fucker and he was the guy to call if you
7 were in a jam.

8 Q. And getting back to the plan, when you met with the
9 police, did you actually point out the tree with the bullet
10 holes?

11 A. Yes.

12 Q. And in terms of the receipt that you indicated the
13 police confronted with you, was that in your wallet did you
14 indicate?

15 A. Yes, they said it was in my wallet.

16 Q. And in terms of Wells, New York and the rest stop that
17 we've talked about, is that rest stop on the way up to
18 Wells, New York?

19 A. No.

20 Q. Is it past Wells, New York?

21 A. It's just past Wells, New York.

22 Q. Lastly, when Mr. Hall was going through this plan that
23 he had about the New York set up of Mr. Glasser, did he ever
24 mention what he would do if the plan didn't work?

25 A. Yes.

1 Q. And can you explain to the jury what Mr. Hall told you
2 would happen if he -- this plan did not work?

3 A. He said that he would have to make him disappear.

4 Q. When you say "he", Mr. Glasser would have to disappear?

5 A. David Glasser.

6 MR. BARRY: Thank you.

7 No more questions, Your Honor.

8 THE COURT: Mr. Frank, you may cross examine.

9 MR. FRANK: Thank you very much.

10 **CROSS-EXAMINATION BY MR. FRANK**

11 Q. Good morning. My name is Attorney Don Frank and I
12 represent Mr. Chalue.

13 Ms. Brooks, a few questions. You testified that
14 there's no deal between the Commonwealth and you in exchange
15 for your testimony; is that correct?

16 A. That's correct.

17 Q. And, of course, you're hoping that your cooperation
18 with the Commonwealth would be taken into so-called
19 consideration; is that right?

20 A. Yeah.

21 Q. And you don't want to go to jail for this activity,
22 right?

23 A. I've already gone to jail.

24 Q. I understand. You don't want to go back to jail?

25 A. Yes, I don't want to go back to jail.

1 Q. And I am going to ask you that you keep your voice up.
2 I can't quite hear you.

3 A. No, I don't want to go back to jail.

4 Q. All right. And you understand that the person who
5 determines whether or not you've cooperated is sitting at
6 counsel table next to me; is that right?

7 A. I believe it also involves the judge.

8 Q. I understand, but you understand that one of the people
9 certainly who make a determination as to whether or not you
10 go back to jail is at the -- is from the District Attorney's
11 Office, right?

12 A. Yeah.

13 Q. Okay. And you understand that if your cooperation is
14 sufficient that the District Attorney has a role in
15 suggesting whether or not you go back to jail; is that
16 correct?

17 A. I'm not fluent with the judicial system, so I'm not
18 sure how it works.

19 Q. Well, when you went to jail -- you went to jail for a
20 period of time; is that correct?

21 A. That's correct.

22 Q. You were held on bail?

23 A. That's correct.

24 Q. Did the District Attorney's Office agree -- did the
25 District Attorney's Office ask that you be held on bail at

1 your arraignment when you were first brought to court?

2 A. Yes.

3 Q. And at some point you're released from jail?

4 A. Yes.

5 Q. And that's because your bail was lowered; is that
6 correct?

7 A. We fought to have it lowered, yes.

8 Q. And it was lowered?

9 A. Yes.

10 Q. Okay. And the District Attorney, you understand, will
11 have -- by the way, this case is now almost -- it's 3 1/2
12 years old, right?

13 A. Yup.

14 Q. And there have been a number of continuances granted in
15 this matter; is that correct?

16 A. Yes.

17 Q. That means your trial has been postponed, right?

18 A. Uh-huh.

19 Q. And its been postponed, you understand some time after
20 your testimony in these cases; is that right?

21 A. I don't know when it will be continued to.

22 Q. When's the trial date?

23 A. I haven't spoken to my lawyer.

24 Q. Okay. Your case is 3 1/2 years old years old and you
25 don't know when your trial date is; is that right?

1 A. Yeah.

2 Q. And you understand that the District Attorney's Office
3 has quit a bit to say in terms of whether or not you go back
4 to jail; is that right?

5 A. I suppose, yeah.

6 Q. Thank you.

7 It's a pretty complicated plan, you would agree with
8 that, correct?

9 A. Yeah.

10 Q. And you didn't come up with this plan, did you?

11 A. No.

12 Q. And as far as you could tell, Alexandra Ely did not
13 come up with that plan?

14 A. I can't speculate about her.

15 Q. Well, when you were there Alexandra Ely was not telling
16 you what to do, was she?

17 A. Correct.

18 Q. It was Adam Hall, right?

19 A. Yes.

20 Q. And Adam Hall told you, you listed a number of steps
21 including looking at pictures and taking a gun, and going
22 for a car ride, and shooting into a tree, all of those were
23 Adam Hall's suggestions; is that right?

24 A. Yes.

25 Q. And is it fair to say that every time you heard of a

1 suggestion, with one exception involving the gun inside the
2 store, that came from Adam Hall, right?

3 A. Yeah.

4 Q. It seemed to have a lot of moving parts in this plan,
5 as we said there are a lot of moving parts, a lot of
6 different things to do in this plan, right?

7 A. Yeah.

8 Q. And you didn't know at that time that Alexandra Ely and
9 Adam Hall were also, as you say, dating, did you?

10 A. Right.

11 Q. He held things from you, right?

12 A. Uh-huh.

13 Q. Is that a yes?

14 A. Yes.

15 Q. Okay. And sometimes you knew what he was up to and
16 sometimes you didn't know what he was up to; is that fair to
17 say?

18 A. Yes.

19 Q. And he assigned you a role, some role, but he didn't
20 assign you all of the roles in this plan, he had other
21 people doing other things in this plan; is that also right?

22 A. Yes.

23 Q. And he didn't tell you what he told Scott Langdon to
24 do, did he? He didn't say exactly what Scott was up to in
25 all aspects, did he?

1 A. Right.

2 Q. And there was Theresa Cunigan and she was part of this
3 in some aspect, you're not sure what; is that fair to say?

4 A. Yes.

5 Q. And because he didn't tell you what Theresa was up to,
6 did he?

7 A. No.

8 Q. Now, he -- Mr. Hall was a Hells Angels full member,
9 right?

10 A. Yes.

11 Q. That was part of the attraction about him, is that fair
12 to say in some aspect?

13 A. No.

14 Q. No? Okay. And you got to meet Scott Langdon, right?

15 A. Yes.

16 Q. And he was a prospect for the Hells Angels; is that
17 right?

18 A. I have no idea.

19 Q. You don't know one way or the other? Okay.

20 And you told us that he talked to you about Caius
21 Veiovis also known as Trash, correct?

22 A. He never said his name, but yeah.

23 Q. The guy who filed his teeth, who you assume is Trash;
24 is that fair to say?

25 A. Yes.

1 Q. And you never met the guy?

2 A. No.

3 Q. And he never mentioned David Chalue or go to David
4 Chalue if you have any problems; never said the words David
5 Chalue as far as you know?

6 A. No.

7 Q. One last thing, when you tell -- each time -- there are
8 a number of times you testified that you sort of pushed back
9 against Mr. Hall, you said, I don't want to do this, right?

10 A. Yeah.

11 Q. And each time and every time you said that he got more
12 and more intense; is that fair to say?

13 A. Yes.

14 Q. And he started to get sort of weedily, needily, whiney;
15 is that right?

16 A. Yes.

17 Q. And he gets kind of loud and makes himself bigger and
18 all over you; is that also right?

19 A. I suppose.

20 Q. And he doesn't take the word no quietly, does he?

21 A. No.

22 Q. And he -- and every time you saw him, you got more and
23 more -- every time you talked about it he would get more
24 intense about this whole thing, correct?

25 A. Yes.

1 Q. And there were times, even when you weren't thinking,
2 you were going -- there were times you were thinking you
3 weren't going to participate in this, right?

4 A. Yes.

5 Q. And at the times you thought you weren't really going
6 to go along with his plan, you were sort of saying, okay,
7 I'll do it, not really thinking you were actually going to
8 do that, right?

9 A. Right.

10 Q. And that was really just kind of to shut him up, right?

11 A. Yes.

12 Q. To stop him, from going on and on and on; is that
13 right?

14 A. I suppose.

15 Q. And it happened on more than a few occasions where you
16 weren't planning to really go through with this plan but you
17 said yes?

18 A. I never actually said yes to anything anywhere. In my
19 testimony I never said yes once.

20 Q. You didn't tell him no because you didn't want him to
21 keep needling you; is that fair to say?

22 A. No, it's not fair to say.

23 Q. You told -- you never told him -- excuse me. You told
24 him that he would -- that you would look at the picture of
25 Mr. Glasser, right?

1 A. I never told him. He put it in front of my face.

2 Q. You looked at the picture of Mr. Glasser; is that
3 right?

4 A. Yes.

5 Q. And you understood that he was showing you that picture
6 of Mr. Glasser so that you could identify him to police in
7 New York?

8 A. He said that afterwards, yes.

9 Q. And when he said that afterward, you understood that he
10 thought that you were -- you understood that he was
11 anticipating that you could go along with the plan, right?

12 A. I don't know what he was thinking.

13 Q. But you didn't tell him you would not do it at that
14 time?

15 A. I had told him numerous times didn't want anything to
16 do with it.

17 Q. All right. And every time you told him that he would
18 needle you?

19 A. Yeah.

20 MR. FRANK: Okay. Thank you.

21 I have nothing.

22 THE COURT: Mr. Barry, redirect examination?

23 MR. BARRY: Thank you, Your Honor.

24 **REDIRECT EXAMINATION BY MR. BARRY**

25 Q. Ma'am, in terms of -- this defense attorney mentioned

1 it -- complicated plan, did it appear that Mr. Hall needed
2 more than one person to successfully pull off this
3 complicated plan?

4 A. Yes.

5 Q. And did Mr. Hall involve more than one person in terms
6 of this complicated plan?

7 A. Yes.

8 Q. And was Mr. Hall -- did it appear he was able to
9 coordinate several people to help him in this plan that
10 would ultimately help him in a court case coming?

11 MR. FRANK: Objection. Leading.

12 THE COURT: Sustained.

13 Q. (By Mr. Barry) How many people, to your knowledge, was
14 involved in this plan?

15 A. Counting myself -- counting myself and Adam probably
16 about five people that I know of.

17 Q. And what was the purpose, the ultimate outcome for this
18 plan?

19 A. For Adam not to go back to jail.

20 Q. And in terms of the details of this plan, about how
21 much of the plan do you feel you know?

22 MR. FRANK: Objection.

23 THE COURT: Well --

24 MR. FRANK: Judge, I'm going to withdraw that
25 objection.

1 THE COURT: All right. You may answer, if you are able
2 to.

3 Q. (By Mr. Barry) If you're able to answer, did you seem
4 to know most of the plan?

5 MR. FRANK: Objection as to the leading nature.

6 THE COURT: Sustained.

7 Q. (By Mr. Barry) I will ask again about how much of the
8 details did you feel you knew about the plan?

9 A. Very minimal.

10 Q. Okay. Did you know you were going up to New York?

11 MR. FRANK: Objection, leading.

12 THE COURT: Well, I'll let you answer that question but
13 bear in mind this is your witness, Mr. Barry.

14 MR. BARRY: Yes, Your Honor, sorry.

15 Q. (By Mr. Barry) Did you know you were going up to New
16 York?

17 A. Yes.

18 Q. And in terms of your participation with the plan, did
19 you want to go through with the plan, want to do anything?

20 A. No.

21 Q. How old were you at the time when this was occurring?

22 A. I was 20 years old.

23 Q. And what was your relationship with Mr. Hall?

24 A. I was under the impression that we were dating.

25 Q. As -- and how old was Mr. Hall, roughly, when you were

1 dating him as a 20 year old?

2 A. He told me he was 26, he was in fact 31.

3 Q. Was he older than you in the relationship?

4 A. Yes.

5 Q. In terms of your relationship with Mr. Hall, not
6 including this plan, did you often feel pressured from
7 Mr. Hall?

8 A. Yes.

9 Q. Okay. And did Mr. Hall, in your relationship with you
10 as a 20-year-old female did he feel like you could say no to
11 him often?

12 A. No.

13 MR. BARRY: One moment, Your Honor.

14 (Off the record discussion amongst The Commonwealth.)

15 Q. (By Mr. Barry) When you indicated you didn't know a lot
16 of the plan, what part didn't you know?

17 MR. FRANK: Objection.

18 THE COURT: You're asking her now what part of the plan
19 she didn't know at the time?

20 MR. BARRY: That's correct.

21 THE COURT: That she now knows?

22 MR. BARRY: That's correct, Your Honor.

23 THE COURT: You may answer.

24 THE WITNESS: Well, the main part is I didn't know the
25 truth about what Glasser really did. He really never did

1 anything in the first place.

2 Q. (By Mr. Barry) Okay.

3 A. And I also didn't know all the other little parts, like
4 I didn't know who he really was. He only showed me who he
5 wanted me to see who he was. I also didn't know from one
6 day to the next what the actual plan was. Things were
7 constantly being added in. I didn't know a lot. I knew
8 from day-to-day, things grew until it was so much that --
9 (Indicating)

10 Q. On August 14, 2010, though, how much of the plan did
11 you know?

12 A. August 14, I knew what immediately involved me.

13 Q. And knowing that, did you still participate in the
14 plan?

15 A. I didn't feel I had a choice.

16 Q. Did you still participate in the plan?

17 A. I did.

18 MR. BARRY: Nothing further, Your Honor.

19 THE COURT: Recross examination limited to those areas.

20 MR. FRANK: No further questions.

21 THE COURT: Ms. Brooks, you are excused.

22 THE WITNESS: Thank you.

23 (The witness stepped down.)

24 THE COURT: Ladies and gentlemen, we are going to take
25 the morning recess. Please bear in mind my cautionary

1 instruction during the break.

2 Don't discuss the case with each other or make any
3 effort to gather information about the case.

4 You are now excused.

5 Thank you.

6 (The jury exited at 10:54 a.m.)

7 THE COURT: We will reconvene in 15 minutes.

8 (The Court exited at 10:54 a.m.)

9 (* * * * *)

10 (The Court entered at 11:14 a.m.)

11 (The defendant was present.)

12 (Ms. Ryan is now seated at counsel table and Ms. Allen
13 is not present.)

14 (The jury entered at 11:14 a.m.)

15 THE COURT: Mr. Barry, you may call your next witness.

16 MR. BARRY: Yes, Your Honor. The Commonwealth calls to
17 the stand Scott Langdon.

18 (Scott Langdon, sworn)

19 THE COURT: Mr. Langdon, good morning.

20 THE WITNESS: Good morning.

21 THE COURT: If I can remind you that we all need to
22 hear you, so keep your voice up and make certain that your
23 answers are verbal rather than by gesture.

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: And answer only the question put to you,

1 please.

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: You may proceed.

4 MR. BARRY: Thank you, Your Honor.

5 (Scott Langdon)

6 DIRECT EXAMINATION BY MR. BARRY

7 Q. First all, Mr. Langdon, could you tell the jury your
8 name?

9 A. Scott Langdon.

10 Q. How old are you, Mr. Langdon?

11 A. Forty-eight.

12 Q. Do you live in the Berkshires?

13 A. Yes.

14 Q. Did you grow up in the Berkshires?

15 A. No.

16 Q. Getting to this case, do you know someone by the name
17 of David Glasser?

18 A. Yes, sir.

19 Q. And how did you first meet Mr. Glasser?

20 A. I met him at a rooming house on Linden Street in
21 Pittsfield, Mass.

22 Q. And when was that, about what year?

23 A. 2005.

24 Q. I'm going to show you what's been marked as Exhibit 3.
25 Ask if you recognize the person in that picture?

1 A. Yes, sir.

2 Q. And who is that?

3 A. David Glasser.

4 Q. I'm sorry. You said that you first met him in, back in
5 2005?

6 A. Yes, sir.

7 Q. And after meeting him in 2005, did you have a
8 relationship with him?

9 A. Yeah, we were friends.

10 Q. And did you keep up that friendship as the years went
11 along?

12 A. Yes, sir.

13 Q. And by August of 2010 were you still friends?

14 A. Yes.

15 Q. In terms of a person, do you know anyone by the name of
16 Adam Hall?

17 A. Yes, sir.

18 Q. And did he have a nickname that he went by?

19 A. Leo.

20 Q. And is that what you called him?

21 A. Yes, sir.

22 Q. I want to show you what's been marked as Exhibit 38.
23 Ask if you recognize the person in that picture?

24 A. Yes, sir.

25 Q. And who is that?

1 A. Adam Hall.

2 Q. When did you first meet Mr. Hall?

3 A. Around 2005.

4 Q. And how did you meet him?

5 A. I met him at Lobster Fest at the clubhouse.

6 Q. And when you say "the clubhouse", what's that?

7 A. The Hells Angels' clubhouse.

8 Q. Where's that located?

9 A. In Lee.

10 Q. After that first meeting, did your paths cross again as
11 the years went along?

12 A. Yes, sir.

13 Q. Did you guys become friends?

14 A. Yes.

15 Q. Did you ever live with Mr. Hall?

16 A. Yes.

17 Q. And when was that?

18 A. 2008.

19 Q. And how long did you live there?

20 A. From March until September.

21 Q. And after living with -- there, did you move out?

22 A. Yes.

23 Q. And where did you move to?

24 A. Parker Road.

25 Q. And after that, did you move around several places.

1 A. Yes, a few times.

2 Q. Ultimately, did you move to Linden Street in
3 Pittsfield?

4 A. Yes.

5 Q. And when you lived on Linden Street what year would
6 that be?

7 A. End of 2008.

8 Q. While living on Linden Street who was your neighbor?

9 A. David Glasser.

10 Q. And who did David Glasser live with?

11 A. Ed Frampton.

12 Q. And while living next to David Glasser and Ed Frampton,
13 did you continue your friendship with Mr. Glasser?

14 A. Yes.

15 Q. In terms of another person, did you know someone by
16 name of Nicole Brooks?

17 A. Yes.

18 Q. And how did you know her?

19 A. I met her through Leo.

20 Q. And did Leo have some type of relationship with her?

21 A. Girlfriend/boyfriend.

22 Q. Did you meet someone by the name of Alexandra Ely?

23 A. Yes, sir.

24 Q. How did you meet her?

25 A. Through Adam.

1 Q. Did he have some type of relationship with Alexandra
2 Ely?

3 A. Yes. Boyfriend/girlfriend.

4 Q. Did you meet someone named Britney Beggs?

5 A. Yes.

6 Q. And how did you meet her?

7 A. Through Leo.

8 Q. What type of relationship did he have with Britney
9 Beggs?

10 A. Boyfriend/girlfriend.

11 Q. Turning to this case, I want to talk about the days
12 leading up to August 14, 2010, that day and the days later.

13 Do you remember that time period?

14 A. Yes.

15 Q. First I want to draw your attention to a month before
16 August 14, 2010, going into July of 2010. Do you remember a
17 time that Leo approached you and asked you to convey a
18 message to David Glasser?

19 A. Yes.

20 Q. Can you explain that to the --

21 A. He asked me to offer him 3,000 dollars not to testify.

22 Q. And did do you that?

23 A. Yes.

24 Q. Did Mr. Glasser accept that 3,000 dollars?

25 A. No.

1 Q. When Hall asked you to offer Mr. Glasser 3,000 dollars
2 not to testify, did he indicate to you something occurred
3 between himself and Mr. Glasser?

4 A. Yes. He told me that the events leading up to the
5 beating and truck signing over.

6 Q. Okay. And did he say he had done something to
7 Mr. Glasser?

8 A. He said David stole carburetor parts from him and that
9 he had -- he beat him with a baseball bat and had him sign
10 over his truck.

11 Q. And at any point did you learn that whether or not that
12 was true that David stole from him?

13 THE WITNESS: Later on he found out that it wasn't
14 true.

15 MR. FRANK: Objection.

16 THE COURT: Sustained.

17 Q. (By Mr. Barry) Now I want to go forward.

18 Among August 2010, do you remember this period of time?

19 A. Yes.

20 Q. Was there a time in August of 2010 that Adam Hall again
21 talked about David Glasser?

22 A. Yes.

23 Q. Do you remember where you were during this
24 conversation?

25 A. He called me to meet him at the Crossroads.

1 Q. Okay. And what is the Crossroads?

2 A. It's a bar.

3 Q. And where is that located?

4 A. Two doors down from my house on Linden Street.

5 Q. So would that be in Pittsfield?

6 A. Yes.

7 Q. And when you met at the Crossroads this first time, who
8 was with --

9 A. At the beginning, just me and Leo.

10 Q. And what was that conversation?

11 A. Told me that he wanted me to ask David for a ride to
12 New York and offer him \$150. For me to get the gas receipts
13 and the toll tickets, and make sure they stayed in the
14 truck.

15 Q. Did he tell you why he needed you to do this?

16 A. He didn't really get too specific. He just said he
17 wanted to discredit his testimony at the upcoming trial that
18 month.

19 Q. Did you agree to do this plan for Mr. Hall?

20 A. Yes, reluctantly.

21 Q. Now, I want to draw your attention to the day before
22 August 14, August 13, 2010. Again, do you remember this
23 day?

24 A. Yes, sir.

25 Q. Did you meet up with Mr. Hall at some point on

1 August 13?

2 A. Yes. There was a knock on my door and I opened it and
3 Nicole Brooks was standing there and said Leo wanted to talk
4 to me in the car.

5 Q. Did you go talk to Leo?

6 A. Yes. I went out and got in the back seat. She jumped
7 back in the front seat and Leo told me that he needed my
8 phone. And I said why, I don't have no minutes for it. And
9 he said, Come on. Go grab your phone. Let's go to Walmart
10 and I will get you the minutes for the phone.

11 Q. Did you go to Walmart?

12 A. Yes, I went inside and I told my girlfriend Theresa
13 Casey Cunigan that Leo wanted me to go to Walmart with him
14 and she said she wanted to go too because there were some
15 things she needed, so she came out and got in the car with
16 us.

17 Q. And so who went to Walmart?

18 A. The four of us -- me, Leo, Nicole, and Theresa.

19 Q. And once you got to Walmart, did you meet anybody?

20 A. On the way to the store, he told me to wait at the
21 benches for Alex and somebody else; I don't remember her
22 name. And so I sat down and I waited and they came out
23 before Alex got there, and we sat there having a cigarette
24 and he handed me my phone card and handed me a camera. And
25 he told me -- I said, What's this for? He goes, I'll tell

1 you later.

2 So just as he was telling me that, Alex and her friend
3 walked up. And they talked with Leo for a little while and
4 Leo handed her credit card back to her and we took off. The
5 four of us in one car, Theresa, me, Nicole, and Leo. And we
6 went to Cumberland Farms and we got out one side of the
7 pumps and Alex and her friend pulled up on the other side of
8 the pumps and Leo pumped gas into both vehicles and she went
9 in and paid by credit card. When she came out he asked her
10 for her credit card back.

11 Q. After going to the Cumberland Farms, did you go
12 anywhere?

13 A. Yes. Went a restaurant, Debbie Wong's.

14 Q. Who went to Debbie Wong's.

15 A. Me, Theresa, Nicole, and Leo.

16 Q. Once at Debbie Wong's, did Mr. Hall make any mention
17 about the camera?

18 A. That's when he went on explaining that he wanted me to
19 take pictures of David Glasser.

20 Q. Did he tell you why he wanted to you take pictures?

21 A. Not in front of Theresa. When she got up to go get her
22 plate, it was a buffet. He told me that he needed her
23 pictures so that he could show it to Nicole so Nicole could
24 identify him later.

25 Q. And, in addition to giving you the camera and I think

1 you mentioned the phone minutes, did Mr. Hall make any other
2 mention of a plan he had against Mr. Glasser at that point?

3 A. He -- he lightly touched on the subject about making
4 sure I leave the receipts in the car, the gas receipts, the
5 toll tickets, and he didn't really talk a lot around
6 Theresa. He didn't want her to hear, so he was pretty vague
7 at Debbie Wong's.

8 Q. Did he tell you where you were going to go?

9 A. Yes; Wells, New York.

10 Q. Did -- again, did you agree with Mr. Hall to go along
11 with the plan?

12 A. Yes.

13 Q. And that day, after getting the camera from Mr. Hall,
14 did you do anything?

15 A. Yes, we went back to our house and I went down the
16 street and got a 10-dollar bag of marijuana and went up to
17 the house and knocked on the door. David answered and I
18 told him we'd smoke and I went in and just sitting there
19 smoking and I took -- I had Theresa take pictures of, like,
20 the cat and stuff, just so, you know, so he didn't think
21 anything weird was going on. I told him I just got a brand
22 new camera and so I took it from her and I took a picture of
23 David and that's --

24 Q. Did you ask or tell David while you were taking a
25 picture of him?

1 A. I was kidding around. I said, Mug for the camera.

2 It was just playing around, you know, act.

3 Q. Okay. And now I want to turn your attention to
4 August 14, 2010, that morning. Did you meet up with
5 anybody?

6 A. Yes, Leo called me in the morning and told me to meet
7 him down at Crossroads so David wouldn't see him. And I got
8 in the vehicle and we went up the street a couple of streets
9 up the road, a couple of streets, and turned in and he hand
10 me \$100 cash and \$50 in quarters and he asked for the camera
11 back.

12 Q. Did you give him the camera back?

13 A. Yes, I did.

14 Q. And by then had you taken pictures of Mr. Glasser?

15 A. Yes.

16 Q. And in terms of the money that he gave you, how much
17 money did he give you?

18 A. One hundred dollars in cash and fifty dollars in
19 quarters.

20 Q. And what was the reason in giving you money?

21 A. To pay David Glasser for the ride to Wells.

22 Q. And did you give all of that money to Mr. Glasser?

23 A. No. I kept \$40 of it.

24 Q. What happened next?

25 A. He didn't bring the GPS unit with him so he called --

1 before he dropped me back off to Crossroads, he called the
2 two girls, Alexandra and Nicole up, and told them to get
3 there with the GPS as soon as possible. So just before they
4 got to the Crossroads they called me and said they were down
5 parked on the other side of the Crossroads. So I walked
6 down and got the camera from them -- or got, I'm sorry.

7 Q. That's okay.

8 A. Walked down and got the GPS unit from them.

9 She tried to hand me a wallet at the same time. I said
10 no, this wasn't part of the plan and I took just the GPS
11 unit and walked back up and got in David's truck.

12 Q. In terms of that GPS unit, did it end up working?

13 A. No, I couldn't figure it out.

14 Q. Once you got back to Mr. Glasser's pickup truck, and in
15 terms of the truck, let me show you what's been marked
16 Exhibit 42. Do you recognize the vehicle depicted in this
17 photograph?

18 A. Yes I do.

19 Q. And what is that?

20 A. David Glasser's Ram truck.

21 Q. Okay. Is this the pickup truck that you walked back
22 to?

23 A. Yes.

24 Q. Okay. Once you got in Mr. Glasser's pickup truck, what
25 happened next?

1 A. I tried to work the GPS, couldn't figure it out. He
2 said, Don't worry about it. The night before he downloaded
3 MapQuest instructions on how to get to Wells and that's what
4 we were -- started to follow out of town.

5 Q. What did you tell Mr. Glasser as your reason for
6 wanting to go to New York, Wells, New York?

7 A. That I had a job up there with a guy.

8 Q. Did you have a job up there?

9 A. No.

10 Q. Whose idea was it to come up with that story?

11 A. Leo.

12 Q. As you were driving up to Wells, New York, did you talk
13 to anyone beside Mr. Glasser?

14 A. Yeah, Leo called me. I called him -- I called him
15 first. And then I told him, I said, the numbers on the
16 interstate are going the wrong way. I said something is
17 wrong. And he told me that there was nothing wrong just to
18 keep going, but as we kept going the numbers kept going
19 down. So I called him again and he said that he would have
20 one of the girls call me.

21 And about five minutes later Nicole called me and she
22 told me that not to pay any attention to the numbers, that
23 you're going the right way and then I didn't talk to him
24 again for about half hour.

25 Q. If I could stop you there. Did you have more than one

1 phone conversation with Mr. Hall on the phone?

2 A. Oh, yes.

3 Q. In terms of your phone, do you remember your phone
4 number?

5 A. 281-4464.

6 Q. I'm showing you a document. Ask you if this appears to
7 be your cell phone from this period time?

8 A. Yes.

9 MR. BARRY: I ask this be marked as an exhibit.

10 THE COURT: Any objection?

11 MR. BARRY: Sixty-nine.

12 MR. FRANK: No objection, Judge.

13 THE COURT: Admitted.

14 (Exhibit No. 69, cell phone records/Scott Langdon,
15 marked)

16 Q. (By Mr. Barry) As you got towards Wells, New York, in
17 one of your phone conversations with Mr. Hall, did he give
18 you some instructions?

19 A. Yes. We were in Amsterdam and we got off the
20 interstate and he told me, he said, at the next gas station,
21 the Hess Station, Pull over. He says Nicole needs to talk
22 to you.

23 So I had David pull out back and I walked into the
24 store. And where he was parked out back, he couldn't see
25 the front of the store?

1 Q. Did Mr. Glasser go inside the store with you?

2 A. No. I told him I was going in to buy him a Coke. I
3 get in the store and Nicole says -- I says, What's up
4 Nicole. She goes -- starts to open up her backpack. She
5 says, Here, take this.

6 I said, I don't want that. That ain't part of the
7 deal.

8 She says Leo wants you to put it in his truck.

9 I said, I don't want it.

10 I walked up to the counter and paid for my soda and as
11 we were walking out she goes, I'm not taking it back. I
12 said, Well, put it in the bathroom. It gave me a few
13 minutes to think about what to do. This wasn't what I was
14 on board for, didn't want to make Leo mad either.

15 Q. Okay. If I could stop you there. In terms of what
16 occurred in the Hess gas station I'm going to show you
17 what's been marked Exhibit 63. Do you recognize the still
18 photo?

19 A. Yes, that's when she tried to hand it to me.

20 Q. Okay. This was inside the Hess gas station?

21 A. Yes.

22 Q. When you say "she" who is this?

23 A. Nicole.

24 Q. Okay. And showing you Exhibit 64, who is that in the
25 photograph?

1 A. Me.

2 Q. Okay. And Exhibit 65, is that you talking with
3 someone?

4 A. Let me see.

5 Yes.

6 Q. And who are you talking to?

7 A. Nicole. That was on the way out when I said -- told
8 her to put it in the bathroom.

9 Q. So, at some point did you go to the bathroom?

10 A. Yes. I decided I better. So I went in the bathroom
11 and grabbed it, grabbed the package. It was -- it was a
12 square package wrapped up in a bunch of like Price Chopper
13 bags and you couldn't see what was inside it, and it had a
14 white tank top T-shirt wrapped around that and it was inside
15 of a Big Y bag or Price Chopper bag.

16 Q. Did you look inside the bag?

17 A. Just to glance on it. I didn't open it up or --

18 Q. Did you know what was inside the bag?

19 A. No.

20 Q. And, I'm sorry, did Nicole tell you something to do
21 with the bag?

22 A. She said put it in his truck. Leo wants you to put it
23 in his truck.

24 Q. Did you do that?

25 A. Yes.

1 Q. Where was Mr. Glasser when you put it in his truck?

2 A. When I came out of the bathroom, in the back, he jumped
3 out as soon as I jumped in and went to the bathroom. So as
4 soon as he got in the bathroom I lifted his seat up a little
5 bit and put it behind his seat.

6 Q. And in terms of this pickup truck, was this a two seat
7 or four seat?

8 A. Two.

9 Q. Okay. And you placed the bag where?

10 A. Right behind his seat.

11 Q. What happened next?

12 A. We pull out of the gas station and we started down, I
13 believe it was Rt. 30, about 25 miles to Wells.

14 And when we got into Wells there's a little gas station
15 after the bridge, and they pulled over. And Dave let me
16 out. I grabbed my bag of tools and I put them by an old
17 telephone booth and I went inside and bought a couple of
18 beers and came back out and sat there and drank them waiting
19 for Leo to pick me up.

20 Q. Did Leo come and pick you up at some point?

21 A. Yes.

22 Q. And was Leo alone or with someone?

23 A. Alexandra Ely.

24 Q. Once you got into Leo's car, did Leo start talking at
25 all about what had just occurred?

1 A. Yeah, he started -- I said, Leo, what was in that bag.
2 He starts laughing and he went on to tell me the whole
3 story, that it was a gun, the wallet that she tried to hand
4 me earlier in the day, and was in there and wrapped up.

5 He seemed really proud about it, what he, you know,
6 what he'd done.

7 Q. Did he say he and Nicole had done anything the night
8 before?

9 A. Yeah, he said they drove to Wells the night before and
10 pulled into that pullout spot, walked into the woods, and he
11 shot into the tree three times. And he showed Nicole
12 exactly where it was so that she could point it out to the
13 police.

14 Q. And did he say what he was going to have Nicole do?

15 A. He was going to have her tell the police that he tried
16 to rape her and kill her.

17 Q. And, again, how was Mr. Hall's demeanor during this
18 conversation?

19 A. He was all proud about it until we started getting
20 closer to Amsterdam and he didn't see no police. And then
21 just as he started to talk about that two went by us real
22 fast, and then he was proud again; Oh, yeah, he goes, they
23 must be on their way.

24 But then as we were getting closer and closer to the
25 thruway he was getting agitated. The cops hadn't pulled him

1 over yet, he figured he would be pulled over and he would go
2 by him and see it.

3 Q. Did he give any indication to you if he wanted
4 Mr. Glasser pulled over in New York?

5 A. He said he needed him pulled over in New York because
6 if he got pulled over in Massachusetts they would put two
7 and two together and they would think he did it. So he
8 didn't want him to make it to New York -- or to Mass.

9 Q. Did you and Ms. Ely and Mr. Hall stop anywhere on the
10 way back to Massachusetts?

11 A. Yes, we stopped at KFC.

12 Before that though, he had me try calling him and
13 saying, asking him to turn around and come back, say that
14 you forgot something in the truck or he said tell him
15 anything just to get him to turn around.

16 Q. Would Mr. Glasser turn around?

17 A. No, he would not. And we got to KFC and he -- they got
18 food and he acted like nothing -- you know, like it was just
19 another day.

20 Q. And how was Mr. Hall's demeanor as you got into
21 Massachusetts?

22 A. He started getting agitated as we got closer to the
23 Mass. border and he wasn't pulled over yet. And he had me
24 call him again and he was already in Mass. and that really
25 made him mad.

1 Q. Did you drive all the way back to Pittsfield or
2 Massachusetts with them?

3 A. No. I got off in Canaan, New York at a campsite. Me
4 and Theresa were staying overnight with friends that have a
5 trailer in the park and that was the -- that was the plan
6 for about a week.

7 Q. Did you meet Theresa there?

8 A. Yes.

9 Q. And when did you come back to Pittsfield?

10 A. Sunday afternoon.

11 Q. And what happened next?

12 A. I was working for her brother over in New York. So he
13 came over and picked me up because it was too far for him to
14 come back in Pittsfield to get me and then drive all the way
15 to job site, so I stayed with him during the week so I could
16 work.

17 Q. And at some point did you find out something about the
18 police wanting to talk to you?

19 A. Yes. I was -- at this point I had -- we started a
20 different job in Connecticut and I was on that job and when
21 Theresa called me and said that Officer Meybaum and Byrd
22 from the New York detective agency wanted to talk to me.

23 Q. I'm sorry. You mentioned Theresa, who is Theresa's
24 brother?

25 A. Dave Casey.

1 Q. When you found out the police wanted to talk to you,
2 did you go talk to them?

3 A. I called them up and they wanted me to -- they were
4 going to meet me in Pittsfield on Wednesday. So I came back
5 from work the night before, Tuesday. And Wednesday
6 afternoon they came in to pick me up at my house.

7 Q. If I could stop you there. Before you spoke to the
8 police, did you speak to Mr. Hall at all?

9 A. Yes. He told me -- he told me -- he came up with this
10 elaborate story to tell the police that Dave and I were
11 drinking all the way to New York and smoking weed and doing
12 coke and that me and him got in an argument and he had a gun
13 and I had to get out of the vehicle.

14 That was the story he wanted me to tell the police. He
15 drilled in my head for three or four days because he kept
16 coming over to New York saying -- because he had talked to
17 Nicole and they said they she couldn't move forward with the
18 case until they talked to me because they didn't know if I
19 was a victim or a co-conspirator. So he came over and kept
20 drilling that into my head and Wednesday when I met them,
21 that's the story I told them.

22 Q. This story you told the New York Police?

23 A. Yes.

24 Q. Let me show you a document.

25 (Pause)

1 Q. (By Mr. Barry) I show you a document with a signature.

2 A. Yes, that's my signature.

3 Q. Does that appear to be the statement you gave to New
4 York State Police.

5 Yes, I gave them the statement, they transcribed it,
6 and I signed it at the end.

7 MR. BARRY: I ask this be marked as an exhibit?

8 THE COURT: Any objection.

9 MR. FRANK: No objection.

10 THE COURT: Admitted.

11 MR. BARRY: Seventy.

12 (Exhibit No. 70, statement of Scott Langdon, marked)

13 Q. (By Mr. Barry) What you told the New York State Police,
14 was that true?

15 A. No.

16 Q. Whose idea was it to tell that story to New York State
17 Police?

18 A. Leo.

19 Q. Ultimately, did you confess to the police?

20 A. Yes.

21 Q. When was that?

22 A. My house got raided on a Friday. I was at work. I
23 came home Saturday and nobody came to see me. Monday got
24 around and Monday Officer Todd Briggs, and I'm not sure who
25 the other one was, came and said they needed to talk to me.

1 They got me out front and they asked me again was I going to
2 cooperate. I said that I would, and we went down to the
3 police station. I told them the truth.

4 Q. And why did you cooperate at that point?

5 A. It was time. The lies weren't going to, you know, were
6 going to catch up to me anyways. You know, Leo -- I should
7 have never told him that in first place, but Leo drilled it
8 into my head.

9 Q. Why did you agree to this plan with Leo?

10 A. To help Dave. I was friends with Dave. I knew he was
11 going to get hurt. I knew that Leo was going to do
12 something. He talked about it all summer. And I tried to
13 get him to not testify by the, you know, with the three
14 thousand dollars. I talked to him a few other times, but he
15 was adamant that he wanted to testify.

16 Q. (By Mr. Barry) Based upon what you did with Leo, were
17 you charged in Massachusetts?

18 A. Yes, I was.

19 Q. And do you currently have charges?

20 A. Yes.

21 Q. Do you know what your charges currently are pending
22 against you?

23 A. Yes, I do.

24 Q. And what would those be?

25 A. Gun used in commission of a felony, kidnapping, witness

1 intimidation, and conspiracy to intimidate.

2 Q. Despite having those open charges, have you willingly
3 testified in front of this jury today?

4 A. Yes.

5 Q. And have you been made any promises or threats for your
6 testimony here today?

7 A. No.

8 Q. Despite that, are you hoping that by testifying you
9 would be given some consideration in your case?

10 A. I hope so.

11 MR. BARRY: One moment, Your Honor.

12 (Off the record discussion amongst The Commonwealth.)

13 MR. BARRY: Sorry. I have two further things.

14 Q. (By Mr. Barry) One thing I failed to mention earlier,
15 but I apologize, but in terms of Theresa Cunigan, what
16 happened to her?

17 A. She passed away.

18 Q. Was that somewhat recently?

19 A. Yes.

20 Q. Secondly, you made some mention in terms of your fears
21 of what Mr. Hall said he was going to do to Mr. Glasser.
22 What exactly did he say he was going to do to Mr. Glasser?

23 A. Over the summer it was a bunch of different things. I
24 mean, leading from beating him up to planting drugs on him,
25 to -- it was always different. Every week it was something

1 different that I would hear him talking about. And I knew
2 that if David would testify, he was going to get hurt.

3 MR. BARRY: Thank you.

4 No more questions, Your Honor.

5 THE COURT: Mr. Frank, you may cross examine.

6 MR. FRANK: Thank you.

7 **CROSS EXAMINATION BY MR. FRANK**

8 Q. Good morning. I'm attorney Don Frank and I represent
9 Mr. Chalue.

10 A. Good morning.

11 Q. You stated that you are testifying -- you have open
12 cases against you; is that correct?

13 A. Yes, sir.

14 Q. Most serious of which is probably the kidnapping case,
15 would you agree with that?

16 A. Yes, sir.

17 Q. And that carries about a 20 year maximum; is that
18 right?

19 A. Yes, sir.

20 Q. And you went to jail for a period of time, correct?

21 A. Two years in jail, two years house arrest.

22 Q. Okay. And those cases are still open, however, right?

23 A. (Indicating)

24 Q. I'm sorry. You have to say yes.

25 A. Yes.

1 Q. That's okay.

2 You don't know when your trial date is; is that right?

3 A. No.

4 Q. But you know some time after you finish cooperating
5 with the District Attorney's Office those cases will go to
6 court and your cases will be resolved one way or another,
7 right?

8 A. Yes.

9 Q. And you're doing this for so-called, you said the word,
10 I think you were asked, you are doing this for
11 consideration?

12 A. Yes, sir.

13 Q. And the consideration that we're talking about is
14 consideration in assisting the District Attorney's Office;
15 is that right?

16 A. Yes, sir.

17 Q. And the consideration you're talking about is
18 consideration in terms of how much you testify in these
19 killings; is that right?

20 A. Just to tell the truth.

21 Q. And it talks about how much -- the consideration -- you
22 understand the consideration is how helpful you can be to
23 the District Attorney's office; is that right?

24 A. Yes, I think.

25 Q. Okay. And you're hoping that the District Attorney's

1 Office will make a recommendation that you don't go back to
2 jail, right?

3 A. Yes, sir.

4 Q. And you understand that the District Attorney's Office
5 has a lot of power in terms of whether or not you go back to
6 jail; is that right?

7 A. Yes, sir.

8 Q. Okay. Now, you were a -- this happened in 2010,
9 correct?

10 A. Yes, sir.

11 Q. And you haven't been back to the clubhouse since your
12 arrest; is that right?

13 A. I haven't been allowed to.

14 Q. All right. And, by the way, by the clubhouse I'm
15 talking about the Hells Angels clubhouse, correct?

16 A. Yes, sir.

17 Q. And you were a Hells Angels prospect?

18 A. No, sir.

19 Q. You were not a prospect?

20 A. I was a friend.

21 Q. A friend that is an official title of the Hells Angels?

22 A. No. I just helped out at all events and had fun with
23 everybody there.

24 Q. Okay. And you met a number of people at the Hells
25 Angels, including Leo Hall, correct?

1 A. Yes, sir.

2 Q. And he was a full member; is that right?

3 A. Yes, sir.

4 Q. And he had -- he was like a Sergeant at Arms or
5 something like that; is that correct?

6 A. Yes, sir.

7 Q. And that's an officer there?

8 A. Yes, sir.

9 Q. And there's a president there by the name of Joe
10 Williams; is that right?

11 A. Yes.

12 Q. And it's -- it's a real organization, they have
13 meetings, right?

14 A. Yes, sir.

15 Q. And you're not allowed to attend the meetings as a
16 friend?

17 A. No, sir.

18 Q. I'm sorry. Just so we don't keep doing this, just wait
19 until I finish the question, if you don't mind, so that the
20 stenographer can finish typing, okay?

21 A. Yes, sir.

22 Q. Thank you.

23 Now, Joe Williams -- you had a -- you worked for Leo
24 Hall on a number of his projects; is that right?

25 A. Yes, sir.

1 Q. And before all of this happened, you had been working
2 for Leo Hall; is that right?

3 A. Yes, sir.

4 Q. And it's fair to say that Leo Hall always had stuff
5 going on? He had a bunch of different projects going on at
6 the same time; that is fair to say?

7 A. Yes, sir.

8 Q. And some of them were legitimate, like working on his
9 house in Peru, correct?

10 A. Yes, sir.

11 Q. And you understood that some of them were not quite as
12 legitimate, that were not above board; is that right?

13 A. Yes, sir.

14 Q. He always kept a -- a few -- may balls in the air in
15 terms of his activities; is that right?

16 A. Yes, sir.

17 Q. And when you did work for him, sometimes you didn't
18 know what was going on; is that right?

19 A. Yes, sir.

20 Q. And you didn't know which project you were necessarily
21 working on; is that right?

22 A. Yes, sir.

23 Q. So like in this particular instance, you testified, I
24 believe, that -- well, let's start off with the fact that
25 you went to Mr. Glasser to offer him \$3,000 not to testify?

1 A. Yes, sir.

2 Q. That's correct?

3 A. Yes.

4 Q. And you told him you were sort of representing the
5 Hells Angels or you made it clear you were representing the
6 Hells Angels, didn't you?

7 A. No, sir.

8 Q. But you understood in that instance, for instance, that
9 you were trying to get Mr. Glasser to not testify against
10 Mr. Hall?

11 A. Yes, sir.

12 Q. All right. And you were doing that on Mr. Hall's
13 behalf?

14 A. Yes, sir.

15 Q. But the beginning of this, for instance, you testified
16 you went to Walmart, right?

17 A. Yes.

18 Q. And when you went to Walmart and you made some
19 purchases or you assisted other people with making
20 purchases, right?

21 A. No, sir. I stood outside.

22 Q. While you were standing outside -- by the way, that's
23 when Alex and Nicole were inside, right?

24 A. No.

25 Q. Who went inside?

1 A. Nicole, Leo, and my girlfriend.

2 Q. Theresa?

3 A. Theresa.

4 Q. Okay. And you didn't know why -- what this going to
5 Walmart had anything to do, ultimately, with what ultimately
6 happened in terms of setting Mr. Glasser up?

7 A. Yes, I knew that was the reason we were going there.
8 He was giving me phone minutes to my phone so we could call
9 back and forth on the way there.

10 Q. So you knew from the point you were at Walmart that you
11 were going to be setting Mr. Glasser up with a rape charge?

12 A. No. That, I didn't know.

13 Q. Okay. And when you went to -- I think you said you
14 went to Cumberland Farms to get some gas, right?

15 A. Yes.

16 Q. And filled up the cars, right?

17 A. Yes.

18 Q. And you didn't know that he was setting Mr. Glasser up
19 with a rape charge at that time, did you?

20 A. No. A rape charge, no, sir.

21 Q. Okay. And same thing, I think that in fact you didn't
22 know about the whole rape charge thing until after the event
23 sort of happened on the ride, right?

24 A. Yes, sir.

25 Q. And now, when you heard that, when Mr. Hall told you

1 what was going on for the first time after, the gun was
2 already planted, right?

3 A. Yes, sir.

4 Q. And you didn't even know there was a gun being passed
5 until you went to the gas station, right?

6 A. Yes, sir.

7 Q. Mr. Hall didn't tell you what was planted -- he was
8 having you plant a gun, right?

9 A. I didn't know about the gun until after I was in the
10 car on the way back home with the Leo.

11 Q. You didn't even know what was in the package?

12 A. No, sir.

13 Q. Because Mr. Hall handed it to you, said, Give this to
14 Nicole.

15 That was it?

16 A. No. No. Nicole tried to hand it to me, and I -- she
17 left it in the bathroom and I took it from the bathroom.

18 Q. Okay. And then you planted it in the car?

19 A. Yes, sir.

20 Q. But you didn't know it was a gun?

21 A. No, sir.

22 Q. You thought it might have been some drugs or something?

23 A. It was the shape of what you would think drugs would
24 be, yes.

25 Q. All right. And you wouldn't have done it if it were a

1 gun, because a gun is much more serious, right?

2 A. I told him in the car, if I had known that it was a gun
3 I wouldn't have did it. He said that's why you didn't know.

4 Q. Right. And, also, you didn't know that there was a
5 whole rape scenario being planned or you wouldn't have
6 helped, right?

7 A. Right. I didn't know about that until I was on my way
8 home.

9 Q. So when you were trying to do this, you were, in some
10 respects, concerned about Mr. Glasser, right?

11 A. Yes, sir.

12 Q. And so, Mr. Hall was simply lying to you about what it
13 was you were doing to get you to do so stuff, correct?

14 A. Not lying. He wasn't telling me the whole thing until
15 after the fact. He just -- he gave me enough information to
16 get me to do it.

17 Q. Okay. And no more until after the event is
18 accomplished, right?

19 A. Yes.

20 Q. All right. And when he told you this, he was excited
21 after the gun was already planted?

22 A. Yes.

23 Q. And that's the first time you heard about it, right?

24 A. Yes.

25 Q. And it's not quite that it's too late, but it had

1 already been done, there was nothing more you could do about
2 it, so you thought, at least that day; is that fair to say?

3 A. Yes.

4 Q. And then a few days later, Mr. Hall comes to you and
5 says, I think we're in some sort of trouble. You need to
6 corroborate Nicole Brooks in some fashion, correct?

7 A. Yes, sir.

8 Q. And he's all excited when he tells you this, right?

9 A. Not really excited. He was more about -- more
10 determined to make sure that I told them what he wanted me
11 to tell them -- so I wouldn't really say excited at that
12 point.

13 Q. Okay. So he's a hard man to say no to?

14 A. You don't say no to.

15 Q. Why not?

16 A. Because he will hurt you.

17 Q. Okay. And does he keep needling you even if he doesn't
18 hurt you?

19 A. Oh, yes.

20 Q. And he yells?

21 A. Yes.

22 Q. And he says the same thing over and over again?

23 A. Yes.

24 Q. And sometimes when you're (sic) saying the same thing
25 over and over again, it's fair to say sometimes you would

1 just say yes to him just to get him to shut up?

2 A. Yes.

3 Q. Even if you don't mean it when you say yes one way or
4 the other; is that fair to say?

5 A. I was hoping that morning that he wouldn't come, and I
6 said yes, just to shut him up.

7 Q. Yeah. And you've done that on more than a few
8 occasions with Mr. Hall and his various plans; is that
9 right?

10 A. Yes.

11 Q. Because he just goes on and on and on?

12 A. Yes.

13 Q. Correct?

14 A. And if it goes too far, he hurts you.

15 Q. Okay. Now, I am -- at some point while -- you went to
16 a lot of events at the Hells Angels' clubhouse, correct?

17 A. Yes, sir.

18 Q. And you saw that Mr. Hall had a number of close
19 associates who were also Hells Angels at the Hells Angels
20 club; is that right?

21 A. Yes.

22 Q. And one of those was Milo Campbell; is that right?

23 A. Yes.

24 Q. And you understood that Mr. Hall and Milo Campbell were
25 very close at one point?

1 A. Yes. I worked for Milo. I knew they were close.

2 Q. And when he worked for -- excuse me.

3 And Milo Campbell was a full-fledged member of the
4 Hells Angels?

5 I'm not sure if I asked that.

6 A. Not in the beginning when I was first up there working
7 and stuff, he was just a prospect. But while I was hanging
8 around them, up there, he became a full patch.

9 Q. Okay. And you've come to hear -- at some point you
10 came to hear that after Mr. Hall was arrested for these
11 charges, he was thrown out of the Club?

12 A. Yes.

13 Q. Out of the Hells Angels, correct?

14 A. Yes.

15 Q. And the person who threw him out of the Hells Angels is
16 Joe Williams, the president of the Hells Angels?

17 A. All of the officers have to agree.

18 Q. And that only happened after, at some point after Mr.
19 Hall was arrested for this case --

20 A. Yes.

21 Q. -- that we're here for today?

22 Yes?

23 A. Yes.

24 Q. Okay. And you understood that the person who replaced
25 Mr. Hall when he was thrown out was Milo Campbell?

1 A. Yes.

2 Q. Well, and so Milo Campbell became the Sergeant at Arms,
3 correct?

4 A. Yes, and then moved up to the Vice President.

5 Q. And do you know whether or not he remains Vice
6 President today?

7 A. I'm not sure today. Joe Williams is not the president
8 anymore either. He's out.

9 Q. Okay. And one of the things about being part of the
10 friends and the associates and the Hells Angels is you, by
11 the way -- you, after you gave a statement and cooperated
12 with the police against the Hells Angels -- against
13 Mr. Hall, you were no longer an associate or a friend of the
14 Hells Angels, correct?

15 A. Yes.

16 Q. And, in fact, you're not supposed to give evidence
17 against a Hells Angels members according to the Hells
18 Angels, correct?

19 MR. BARRY: Objection, Your Honor.

20 THE COURT: Overruled.

21 THE WITNESS: Right.

22 Q. (By Mr. Frank) And it is for that reason when you gave
23 evidence against Mr. Hall, that you were now no longer a
24 so-called friend, associate of the Hells Angels, correct?

25 A. As far as I know, I'm still a friend.

1 Q. You are? Well, but you know that you're not supposed
2 give evidence against Hells Angels generally?

3 A. He wasn't a Hells Angel when I gave evidence.

4 Q. He had already been thrown out, Mr. Hall?

5 A. Yes. Yes.

6 Q. And that -- that is a yes?

7 A. Yes.

8 Q. And that would be some time in 2011?

9 A. I believe so.

10 Q. All right. And you gave, and started cooperating with
11 this case after he was thrown out, correct?

12 A. No. I gave testimony after he was thrown out.

13 Q. After he was thrown out.

14 And that's because you were freed up to give testimony
15 against Mr. Hall because he was no longer a Hells Angels,
16 correct?

17 A. Yes.

18 Q. All right. And, were he a Hells Angels, it would have
19 a lot more different implications for you --

20 A. Yes.

21 Q. -- to testify against him?

22 A. Yeah.

23 Q. Okay. Because you know you're not supposed to give up
24 a Hells Angels, correct.

25 MR. BARRY: Objection, Your Honor.

1 THE COURT: Sustained. He's answered that question.

2 THE WITNESS: Yes.

3 THE COURT: That will be stricken, ladies and
4 gentlemen.

5 Q. (By Mr. Frank) And were there other -- were you aware
6 of other members of the Hells Angels who --

7 A. I don't --

8 Q. -- strike that.

9 Just a moment, please.

10 Before this occurred in 2010, were you aware of other
11 Hells Angels who also approached Mr. Glasser?

12 A. Oh, no. It wasn't a club-sanctioned thing.

13 (Pause)

14 Q. (By Mr. Frank) Just one other thing, you had at one
15 point -- at some point, you started working for Mr. Casey,
16 correct?

17 A. Yes, sir.

18 Q. And that's David Casey, correct?

19 A. Yes, sir.

20 Q. And you understand him to be the sort of fourth
21 defendant in the case we're here for today?

22 A. Yes.

23 Q. And David Casey, at some point you started -- David
24 Casey is, by the way, Theresa's brother right?

25 A. Yes. Yes.

1 Q. And when you started working for David Casey, Adam Hall
2 indicated that you owed Adam money for something or other,
3 right?

4 A. No.

5 Q. Did Adam Hall say that David Casey should pay him for
6 your work?

7 A. Oh, yes. When I first -- when David first got me
8 starting to work for him he told David he had to give him my
9 paycheck and then he would give me whatever he wanted. And
10 David said he wasn't doing that.

11 Q. And he did that after -- you understood he did that
12 after conferring with Joe Williams the Hells Angels
13 president; is that correct?

14 MR. BARRY: Objection, Your Honor.

15 THE COURT: Overruled. You may answer, if you know the
16 answer.

17 THE WITNESS: David went to them before he got me away
18 from Leo. I was living in Leo's cellar in a tent, where he
19 made me live. And David came -- when Leo was in California
20 and Dave went and got permission for me to leave.

21 Q. (By Mr. Frank) From Joe Williams?

22 A. Yeah; well, yes.

23 Q. And you understand that David Casey and Joe Williams
24 certainly at that time were close; is that right?

25 A. Yes.

1 MR. FRANK: Okay. Thank you very much.

2 THE COURT: Mr. Barry redirect?

3 MR. BARRY: Thank you, Your Honor.

4 **REDIRECT EXAMINATION BY MR. BARRY**

5 Q. When you were talking about the payment you owe Leo,
6 what year are we talking about?

7 A. 2008.

8 Q. So you're going back a quite a number of years?

9 A. Yes.

10 Q. What did you owe him money for?

11 A. I don't owe him money. Leo wanted my paychecks.

12 Q. And he just took it?

13 A. He told David he wanted them and David went to Joe and
14 told Joe what was going on and Joe said that David could
15 pull me out of there, out of his house. And he pulled me
16 out of his house and week later Leo found me and it wasn't
17 nice.

18 Q. You were asked about your knowledge and your friendship
19 with Mr. Joe Williams and Adam Hall. Do you know what your
20 friendship is like now?

21 A. Nonexistent.

22 Q. And was that as the basis of this case?

23 A. Yes.

24 Q. Okay. And do you know the reason behind it?

25 A. Not fully, no.

1 Q. You were asked also on cross examination, just to clear
2 something up, if Mr. Hall is kicked out of the Hells Angels,
3 do you know the reason he was kicked out of Hells Angels?

4 A. Because he was going to -- he went to the FBI to wear a
5 wire in the clubhouse and bring down the Club.

6 Q. And in terms of what we're talking about in
7 August 2010, Mr. Glasser; when you drove up to New York with
8 Mr. Glasser, what did you believe you were driving up to New
9 York for?

10 A. Just to leave the receipts in the car so that at a
11 later time they would be found, so he can discredit Dave.
12 That's what I was told.

13 And then, obviously, I was told the whole story after
14 the --

15 Q. And even though Mr. Glasser was your friend, you still
16 drove up to New York, knowing that you were, for lack of a
17 better word, you were setting him up?

18 A. Because I figured a little time in jail was a lot
19 better than what Leo was going to do to him.

20 Q. When you drove up to New York, did you know if there
21 was more than just you involved in the plan?

22 A. I knew that Nicole was, because, the cabin was
23 supposedly where I was going to work was her relative's. So
24 I -- I figured I was meeting Nicole and she was going to
25 pick me up.

1 But then when they got to the Hess Station it was
2 Alexandra and Leo and that's when he -- I said, Well, what
3 happened to Nicole. That's when he went on telling me about
4 the whole story.

5 Q. So Mr. Hall had a plan involving more than just you?

6 A. Yes.

7 Q. And in this plan having more than just you, what was
8 the purpose of the end of this plan?

9 A. He didn't say the end of it. He said he wanted the
10 receipts left in the vehicle so he can discredit him at a
11 later time. He said, like, hide them under the seat. He
12 said hide them under the seat so somebody can find them.

13 Q. So he had a plan to help him out in his court case?

14 A. Yes.

15 Q. And this involved you?

16 A. Yes.

17 Q. And you agreed to help him out in that plan?

18 A. Yes.

19 MR. BARRY: Thank you. No more questions.

20 THE COURT: Mr. Frank, recross examination limited to
21 those areas?

22 MR. FRANK: Yes.

23 **RECROSS-EXAMINATION BY MR. FRANK**

24 Q. You learned that Mr. Hall was kicked of the Club for
25 offering to cooperate with the FBI and wear a wire against

1 the Hells Angels, correct?

2 A. Yes, sir.

3 Q. And that information came out some time after the
4 killings and event underlying this case, that we're here for
5 today, correct?

6 A. Right around the same -- right around the same time, a
7 few days afterwards.

8 Q. Okay. How many days?

9 A. A few days.

10 Q. Like three or four or two or three?

11 A. I don't remember.

12 Q. And you understand that it was police investigators who
13 gave that information to somebody in the Hells Angels; is
14 that correct?

15 A. I don't know how they got it. I didn't get asked.

16 Q. But the Hells Angels had that information two, three,
17 four days after the event?

18 A. I'm not sure. I was in jail.

19 Q. You came to hear however, that a few days after the
20 event underlying this prosecution, that Mr. Hall had agreed
21 to cooperate and work against the Hells Angels with the FBI?

22 A. Yes, I heard he was going to cooperate.

23 Q. And that was spreading more or less, is it fair to say?
24 I mean, you heard it third hand, secondhand --

25 A. In jail.

1 Q. In jail.

2 Were you at Berkshire County?

3 A. Yes, I was.

4 Q. And it's fair to say that everybody, that many people
5 in Berkshire County was sort of talking about that; is that
6 right?

7 A. It was topic of conversation.

8 Q. Okay. And it's certainly of interest that he was
9 offering -- was thrown out of the Hells Angels, it perked
10 your ears up; is that right?

11 A. Yes.

12 MR. BARRY: Objection, Your Honor.

13 THE COURT: Sustained.

14 MR. FRANK: May I go sidebar, Your Honor?

15 THE COURT: You may not. Ask your next question.

16 Q. (By Mr. Frank) Now, when you learned that he had
17 offered to cooperate against the FBI -- excuse me, when you
18 learned that he offered to cooperate against the FBI, at
19 that point you felt free to testify against Mr. Hall,
20 correct?

21 A. I felt easier in my mind because I rather have one
22 person mad at me than a whole country full of them.

23 MR. FRANK: Thank you very much. Thank you.

24 THE COURT: Mr. Langdon, you're excused.

25 Thank you.

1 (The witness stepped down.)

2 THE COURT: You may call your next witness.

3 MR. BARRY: Commonwealth will call to the stand

4 Alexandra Ely.

5 (Alexandra Ely, sworn)

6 THE COURT: Ms. Ely, good afternoon.

7 THE WITNESS: Good afternoon.

8 THE COURT: If I could remind you that it's important
9 that we all hear you so please keep your voice up and let us
10 know if you don't understand the question.

11 If you do understand it, please limit your response to
12 that question.

13 THE WITNESS: Okay.

14 THE COURT: You may proceed.

15 MR. BARRY: Thank you, Your Honor.

16 (Alexandra Ely)

17 **DIRECT EXAMINATION BY MR. BARRY**

18 Q. Good afternoon, ma'am.

19 First of all, could you tell the jury your name?

20 A. Alexandra Ely.

21 Q. How old are you?

22 A. Twenty-five.

23 Q. And do you know someone -- do you have any children
24 first of all?

25 A. Yes, I do.

1 Q. And a what's your child's name?

2 A. Ella.

3 Q. And how old is Ella?

4 A. She's two.

5 Q. Do you know someone by the name of Adam Hall?

6 A. I do.

7 Q. How do you know Mr. Hall?

8 A. I had a relationship with him.

9 Q. Is he the father of your child?

10 A. Yes.

11 Q. I show you what's been marked Exhibit 38, do you
12 recognize the person in that picture?

13 A. Yes.

14 Q. And who is that?

15 A. That's Adam Hall.

16 Q. In terms of your relationship with Mr. Hall, when did
17 you start dating him?

18 A. 2009.

19 Q. Okay. And were you dating him during the Summer of
20 2010?

21 A. We were on and off.

22 Q. Okay. And during the Summer of 2010, did you find out
23 whether or not Mr. Hall's dating somebody else?

24 A. Yes.

25 Q. Okay. And who was that?

1 A. Brittany Beggs.

2 Q. Okay. In 2010?

3 A. No, Nicole Brooks in 2010, Brittany Beggs was before
4 that, I'm sorry.

5 Q. Okay. Were you dating Mr. Hall while he was dating
6 Mr. Britney Beggs too?

7 A. No.

8 Q. In terms of the Summer of 2010, first of all, how did
9 you find out he was dating Nicole Brooks?

10 A. I found out with everything that had happened, it
11 was -- didn't know they were dating until I met her and then
12 put it together.

13 Q. But in the Summer of 2010, you were both dating at the
14 same time, would that be fair to say?

15 A. Yes.

16 Q. Was there a time in the Summer of 2010 that you got a
17 chance to meet Nicole Brooks?

18 A. Yes.

19 Q. And where was that?

20 A. It was at his house in Peru.

21 Q. And how did Mr. Hall introduce Ms. Brooks? Just a
22 friend?

23 A. Yes, as a friend.

24 Q. While the three of you were at the house in Peru, what
25 were you doing?

1 A. We were cleaning out the trailer.

2 Q. And before this date, did you ever hear the name David
3 Glasser from Mr. Hall?

4 A. Yes.

5 Q. How did Mr. Hall bring up Mr. Glasser's name?

6 A. He had pending charges with David Glasser.

7 Q. Did he seem happy about those pending charges?

8 A. No.

9 Q. When Mr. Hall brought up David Glasser's name, did he
10 say anything about what he intended to do about Mr. Glasser?

11 A. Not until that day.

12 Q. On that day, did he make mention of David Glasser and a
13 plan he had?

14 A. Yes.

15 Q. And could you tell the jury what he said about the plan
16 he had involving Mr. Glasser?

17 A. He was going to plan to set up David Glasser like it
18 looked like he kidnapped and -- tried to kidnap and rob
19 Nicole Brooks.

20 Q. And did he say why he wanted to do this?

21 A. Because of the pending charges and didn't want him to
22 testify.

23 Q. And did he say who was involved in this plan?

24 A. Yes.

25 Q. Who did he say was involved?

1 A. Nicole and him and Scott Glasser -- Scott Langdon,
2 sorry.

3 Q. Did you know Mr. Langdon?

4 A. Yes.

5 Q. And who was present for this conversation?

6 A. Me, Nicole, and Adam.

7 Q. While present, after this conversation, did you guys go
8 somewhere on the property?

9 A. Yes.

10 Q. Where did you go?

11 A. To the pond.

12 Q. And what happened once you got near the pond?

13 A. Showed -- he picked up a gun.

14 Q. Where was that gun?

15 A. It was placed somewhere near, around. It was around
16 the pond, near the pond.

17 Q. Was the gun in anything?

18 A. Yes.

19 Q. What was it in?

20 A. A plastic bag.

21 Q. And I'm going to show you what has been marked as
22 Exhibit 52 and ask if you recognize this object?

23 A. Yes.

24 Q. And what is this?

25 A. The gun.

1 Q. That he retrieved on that day?

2 A. Yes.

3 Q. And did he say what he was going to do with that gun
4 after he retrieved it?

5 A. Yes.

6 Q. What did he say he was going to do with it?

7 A. He said he was going to use that gun to look like David
8 Glasser used the gun to try to rob Nicole with.

9 Q. And what happened next? Did you stay on the property?

10 A. I do not remember.

11 Q. Well, next I want to turn your attention to August 13,
12 the day before August 14. Did you meet up with Mr. Hall at
13 all on that day?

14 A. Yes.

15 Q. Where did you meet up with him?

16 A. I have all of my days mixed up.

17 Q. This is before you guys actually went up to New York,
18 the day before, did you go to any stores?

19 A. Yes.

20 Q. Where did you go?

21 A. Price Chopper or Walmart, I don't remember.

22 Q. Okay. Well, was it fair to say that the morning of --
23 did you go to the Price Chopper?

24 A. Yes.

25 Q. So the day before, what store did you go to?

1 A. Walmart.

2 Q. When -- and when you went to Walmart, why did you go
3 there?

4 A. I went there to pick up my credit card or give him my
5 credit card. I don't remember which way it went.

6 Q. Did you, at some point, get that credit card back from
7 him?

8 A. Yes.

9 Q. After going to Walmart, where did you go?

10 A. Cumberland Farms.

11 Q. Did you see Mr. Hall there again?

12 A. Yes.

13 Q. And did you leave him at that point?

14 A. Yes.

15 Q. Did you end up going to Debbie Wong's or not?

16 A. I don't think I went to Debbie Wong's I went to Target
17 with Brittany and guy friends of mine.

18 Q. Later that day, did you happen to go to the Crossroads
19 bar?

20 A. Yes.

21 Q. And who was present at the Crossroads bar when you
22 went?

23 A. I believe Scott and maybe it was Nicole and Adam or it
24 was Scott and Adam or maybe it was all three of them, don't
25 remember.

1 Q. I next want to bring your attention to August 14, 2010.
2 You indicated that morning you went some place?

3 A. Yes.

4 Q. Where did you go?

5 A. Price Chopper.

6 Q. Who did you go to Price Chopper with?

7 A. Adam, I believe.

8 Q. Was Nicole Brooks ever at the Price Chopper?

9 A. Yes.

10 Q. Do you know whether or not she went inside the Price
11 Chopper?

12 A. I believe she did.

13 Q. When she came out of Price Chopper, did you meet her
14 again?

15 A. Yes.

16 Q. And when she came out of the Price Chopper, did you and
17 Nicole Brooks go somewhere?

18 A. Yes.

19 Q. Where did you two go?

20 A. The Crossroads.

21 Q. After going to Crossroads, did you see anybody at the
22 Crossroads?

23 A. Scott.

24 Q. After going to the Crossroads, did you go someplace
25 else?

1 A. Yes.

2 Q. Where did you go?

3 A. Madison Avenue.

4 Q. All right. And did you also go to Peru at some point?

5 A. I believe so.

6 Q. Did you get anything when went up to the Peru property?

7 A. A GPS.

8 Q. And, by the way, whose property is in Peru?

9 A. Adam's.

10 Q. And what was your purpose in getting that GPS?

11 A. To give to Scott, I believe.

12 Q. And after getting that GPS, did you at some point give
13 that to Scott?

14 A. Yes.

15 Q. Now, you mentioned you also went to Madison at some
16 point too?

17 A. Yes.

18 Q. When you went to Madison, do you see Mr. Hall at all?

19 A. Yes.

20 Q. And was Nicole Brooks there?

21 A. Yes.

22 Q. And did you see anything occur when you went to Madison
23 between Mr. Hall and Ms. Brooks?

24 A. They either took or put in something into Nicole's hood
25 or took it out of -- I think they took it out of.

1 Q. Okay. And, when you say "something"?

2 A. I believe it was the gun.

3 Q. You saw them either take it or put it into what?

4 A. Nicole's hood.

5 Q. Do you remember what kind or color of the car she had?

6 A. I believe it was red.

7 Q. After you gave Mr. Langdon the GPS, was he -- who were
8 you with?

9 A. I was with Nicole.

10 Q. All right. Do you know if she gave him anything else?

11 A. She tried to give him her wallet.

12 Q. And what happened?

13 A. He said no.

14 Q. After you gave him the GPS, what happened?

15 A. We went -- I believe went to Madison Avenue, I went to
16 Madison Avenue.

17 Q. And that's when you saw the placing, either placing or
18 taking out the gun into the vehicle?

19 A. Yes.

20 Q. What happened after that?

21 A. We drove up to New York.

22 Q. Okay. And when you say "we" who did you drive to New
23 York with?

24 A. Me and Adam.

25 Q. And did you know the purpose of going to New York?

1 A. Yes.

2 Q. And what was that?

3 A. I believe it was to set up David Glasser.

4 Q. All right. Did you see anybody else driving to New
5 York besides you and Mr. Hall?

6 A. Yes.

7 Q. Who did you see drive up there?

8 A. Nicole and Scott and David Glasser.

9 Q. All right. And in terms of the vehicle that David
10 Glasser and Scott Langdon were driving in, what kind of
11 vehicle was it?

12 A. A dark-colored truck.

13 Q. All right. I'm going to show you what's been marked as
14 Exhibit 42, and ask you, if you recognize the vehicle in
15 that exhibit?

16 A. Yes.

17 Q. And what is that?

18 A. That is the truck.

19 Q. While you were driving up to Wells, New York, did you
20 see Mr. Hall use the phone at all?

21 A. Yes.

22 Q. And from his conversation from when you -- what you
23 could hear from what he was saying, could you tell who he
24 was talking to?

25 A. It was either Scott or Nicole.

1 Q. And in terms of cell phone usage, did he use your cell
2 phone at all?

3 A. Yes.

4 Q. And did he use his cell phone at all?

5 A. Yes.

6 Q. Showing you what's been marked as Exhibit 34 -- I'm
7 sorry.

8 A. That's okay.

9 Q. Do you recognize this is your cell phone records?

10 A. Yes.

11 Q. Okay. And in terms of Adam Hall -- first of all, how
12 did you know Adam Hall's phone number?

13 A. It was on the back of his tow truck.

14 Q. And in looking at the cell phone records, these appear
15 to be Mr. Hall's records?

16 A. It's the 347 number.

17 Q. 347-7528?

18 A. Yes.

19 Q. That's Mr. Hall's number?

20 A. Yes.

21 Q. That was Exhibit 29.

22 What was the conversation you heard Mr. Hall having?

23 A. About them following, where they were, how it's going.

24 Q. At some point, once you got into New York, did you see
25 either Mr. Brooks or Mr. Glasser or Mr. Langdon go

1 somewhere?

2 A. Yes.

3 Q. Where did they go?

4 A. Gas station I believe.

5 Q. What happened next?

6 A. We stopped at Stewart's, parked up the street.

7 Q. And what did do you at Stewart's?

8 A. Got something to eat and then waited for Nicole and
9 Scott to drive by.

10 Q. And after they drove by, what did you do?

11 A. We got in the car and continued to follow them.

12 Q. And what happened next?

13 A. We picked up Scott, I believe.

14 Q. When you picked up Scott Langdon, was there any
15 discussion between Mr. Langdon and Mr. Hall once he was
16 picked up?

17 A. Yes.

18 Q. Could you explain to the jury what that statement was?

19 A. They talked about how David Glasser was, what happened,
20 what they just did.

21 Q. How did they both appear?

22 A. Excited, nervous; it was a bunch of emotions in one.

23 Q. And were they specific about what they had just done?

24 A. Yes.

25 Q. What, specifically, did they talk about?

1 A. Where they talked about placing the gun in the car, in
2 his truck, how David Glasser felt.

3 Q. And did they continue to have conversations as you guys
4 continued to drive?

5 A. Yes.

6 Q. And in which direction were you driving?

7 A. Back towards Pittsfield.

8 Q. And how was Mr. Hall as you guys drove in this
9 conversation?

10 A. He was a little jumpy, he was --

11 Q. What was he jumpy about?

12 A. What was happening, if David Glasser was getting pulled
13 over, if he was going to get arrested.

14 Q. At some point did you go to the rest stop at all?

15 A. Yes.

16 Q. And why did you go to the rest stop?

17 Or did you know why you went to the rest stop?

18 A. I don't remember.

19 Q. Did Mr. Hall have a conversation with Ms. Brooks at a
20 rest stop?

21 A. I don't -- possibly, I don't remember.

22 Q. Was she there?

23 A. Yes.

24 Q. In addition to the rest stop, did you stop any place
25 else?

1 A. We dropped Scott off on our way back to Pittsfield --
2 or Kentucky Fried Chicken. We all stopped at Kentucky Fried
3 Chicken.

4 Q. And you dropped Scott off where?

5 A. Somewhere in New York.

6 Q. At some point, where did you go after you dropped Scott
7 off?

8 A. Back to Peru.

9 Q. At some point, once you're back in the Berkshires, did
10 you ever learn that if Mr. Glasser was indeed arrested?

11 A. Not until a couple of days after I believe.

12 Q. After you learn that Mr. Glasser was arrested, did you
13 go anywhere?

14 A. Yes.

15 Q. Where did you go?

16 A. I had a vacation planned with my father to Virginia.

17 Q. And when did you get back from Virginia?

18 A. I took a bus back, it was about a week. I was there
19 for about a week.

20 Q. And once you got back to the Berkshires, anything
21 happen to you?

22 A. Yes.

23 Q. What happened to you?

24 A. I got arrested.

25 Q. And at some point did the police want to speak to you

1 after you were arrested?

2 A. Yes.

3 Q. And when you first spoke to the police, were you
4 completely honest with them?

5 A. No.

6 Q. How come?

7 A. I was scared. I was jealous. I was nervous. I was a
8 lot of emotions in one.

9 Q. When you first spoke to the police, who did you say was
10 to blame?

11 A. Nicole.

12 Q. And that would be Nicole Brooks?

13 A. Yes.

14 Q. And how come you told the police it was Nicole Brooks'
15 fault?

16 A. I was jealous. I was hurt. I was scared.

17 Q. Because of her relationship with Mr. Hall?

18 A. Yes.

19 Q. After you were arrested, did you get a chance to speak
20 to Mr. Hall at all?

21 A. Yes.

22 Q. Okay. Do you remember anything about that
23 conversation?

24 A. No, not much.

25 Q. After you're arrested, were charges brought against

1 you?

2 A. Yes.

3 Q. And do you still have those same charges pending
4 against you?

5 A. Yes.

6 Q. Do you know what those charges are for?

7 A. Yes.

8 Q. What would that be?

9 A. Exact charges.

10 Q. Well, to the best of your memory or knowledge?

11 A. I believe kidnapping, I believe use of a firearm,
12 conspiracy. I don't remember the last one.

13 Q. Were they charges similar to what Mr. Hall has?

14 A. Yes.

15 Q. And others?

16 Despite having those charges that are opened, are you
17 still testifying here today?

18 A. Yes.

19 Q. And have you been -- made any threats or promises in
20 order to get you to testify here today?

21 A. No.

22 Q. Despite that, are you hoping by testifying today that
23 you will be given some consideration for your testimony?

24 A. Yes.

25 MR. BARRY: Thank you.

1 No more questions.

2 THE COURT: Mr. Frank, you may.

3 MR. FRANK: Thank you.

4 I just want to be clear, there's an agreement regarding
5 bifurcation, Your Honor?

6 MR. BARRY: That's true.

7 MR. FRANK: There is. Okay.

8 THE COURT: So I would expect in light of that, your
9 cross-examination would be limited to this testimony?

10 MR. FRANK: Yes, thank you.

11 **CROSS EXAMINATION BY MR. FRANK:**

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. I'm Attorney Don Frank. You may know Dave Chalue.

15 Let me ask you a couple of questions just about this
16 incident.

17 A. Okay.

18 Q. Starting off with the charges against you, most serious
19 which is, I think there is a kidnapping in there, right?

20 A. Yes.

21 Q. And that carries a 20 potential max, right?

22 A. Yes.

23 Q. And then you have a son with Mr. Hall who is now two
24 years old?

25 A. I have a daughter with him.

1 Q. I apologize, a daughter.

2 A. That's okay, yes.

3 Q. And she -- and you obviously care for your daughter?

4 A. Yes.

5 Q. And you don't want to go back to jail, correct?

6 A. Correct.

7 Q. And you, you didn't give a statement against Mr. Hall
8 until after he was arrested for the charges for which we are
9 here today, correct?

10 A. I'm -- I'm not sure -- believe so, maybe. I don't know
11 -- yes, no, possibly.

12 Q. All right. All right. At some point you gave a
13 statement against Mr. Hall in regard to, let's just talk now
14 about the New York incident, right?

15 A. Yes.

16 Q. And you didn't do that for about a year; is that right?

17 A. It was a while, I believe so.

18 Q. Okay. And it is after Mr. Hall was under arrest,
19 correct?

20 A. Yes.

21 Q. And you did it -- and you have -- your cases are still
22 open, right?

23 A. Yes.

24 Q. And you don't want to go back to jail?

25 A. Correct.

1 Q. Did you spend any time in jail?

2 A. Four days.

3 Q. And was there an agreement to have you released?

4 A. On bail.

5 Q. On bail. Okay.

6 And the that agreement was with the prosecutor's
7 office, right, the District Attorney's Office?

8 A. It was. I was released on bail. My mom paid the bail.

9 Q. And when you -- and your case is still open, I just
10 want to be clear about that, right?

11 A. Yes.

12 Q. And you know that your cooperation with the District
13 Attorney and your -- that prosecution, the New York
14 prosecution, all of that, the prosecutions will be taken
15 into consideration, correct?

16 A. Correct.

17 Q. And the people who give you that consideration are the
18 District Attorney's Office, correct?

19 A. I believe so.

20 Q. You don't have a deal with a judge for anything to be
21 taken into consideration, right?

22 A. Right.

23 Q. All right. And your hope is that if you are a good
24 cooperator you will not go back to jail on these New York
25 cases?

1 A. I am hopeful.

2 Q. Now, going back to the New York incident, no longer
3 talking about your jail situation, you had some contact with
4 Scott Langdon around this incident, right?

5 A. Yes.

6 Q. And Scott was helping, it appeared that Scott was
7 helping Nicole and Adam on this matter, right?

8 A. Yes.

9 Q. And it seemed like when you were talking to him he
10 seemed excited about the matter, correct?

11 A. He was excited and jumpy and he was a bunch of things.

12 Q. And he never told you that he didn't want to do this,
13 did he?

14 A. I don't remember.

15 Q. Had he told you he didn't want to do this, might that
16 be something you'd remember?

17 A. Probably.

18 Q. Okay. And you don't remember him saying, Let's not do
19 this; or, I don't want to do this; Do you?

20 A. I don't remember.

21 Q. Okay. Now, you knew that Scott Langdon -- your Adam
22 Hall was a Hells Angels member, correct?

23 A. Yes.

24 Q. And he was a Hells Angels member with a title of
25 Sergeant at Arms, right?

1 A. That's correct.

2 Q. And that's pretty high up in the Hells Angels, right?

3 A. I believe so.

4 Q. And Scott Langdon, you knew Scott from the Hells
5 Angels?

6 A. Yes.

7 Q. And was it your understanding that he was a prospect of
8 the Hells Angels?

9 A. I don't ever remember Scott being a prospect.

10 Q. You understood that he was a friend of the Hells
11 Angels?

12 A. Yes.

13 Q. Okay. And you -- and you also had some contact with a
14 number of car rides with Nicole Brooks?

15 A. Yes.

16 Q. And you came to realize that she and your boyfriend
17 were also together?

18 A. Yes.

19 Q. And you didn't stop your participation in this project
20 after you learned that, did you?

21 A. No.

22 Q. And you kept going in this project after you learned
23 that he was cheating on you because it's kind of an ordeal
24 in a certain way dealing with Adam Hall; that is fair to
25 say?

1 A. Yes.

2 Q. And to confront Adam Hall takes a lot of energy, right?

3 A. Yes.

4 Q. And when he's onto something, sometimes it's easier to
5 just say yes even when you don't mean yes; is that correct?

6 A. Correct.

7 Q. And he has -- he always has stuff going on, he has
8 different projects, right?

9 A. Yes.

10 Q. And he can have more than one project going on at the
11 same time, correct?

12 A. Correct.

13 Q. And some of those are legitimate, like repair of his
14 house and some of those are illegitimate like setting up?

15 A. Correct.

16 Q. When he has all of those projects going on, it's fair
17 to say you don't really know what he's doing, correct?

18 A. Correct.

19 Q. And you had many experiences where it turned out you
20 later learned that he had you do one thing and it turned out
21 he really had another thing in mind?

22 A. Correct.

23 Q. And he lies to you, correct?

24 A. Yes.

25 Q. And even after you were pregnant with his child,

1 correct?

2 A. Yes.

3 Q. And he would lie to you when you were pregnant with his
4 child?

5 A. Yes.

6 Q. And he manipulates?

7 A. Yes.

8 Q. And this plan is not your plan, correct?

9 A. Correct.

10 Q. Now, talking about the New York plan.

11 A. Yes.

12 Q. And it's Adam Hall who came up with the plan, correct?

13 A. Yes.

14 Q. And it's Adam Hall who assigned all of the parts,
15 correct?

16 A. I believe so.

17 Q. He was -- assigned the different roles to different
18 people; is that right?

19 A. Yes.

20 Q. And at least as far as what you're concerned, you
21 didn't know what other people were doing when he had you to
22 do certain things?

23 A. Correct.

24 Q. Perhaps later you learned what was going on, while it
25 was going on you didn't really know what was going on?

1 A. Exactly.

2 (Pause)

3 MR. FRANK: One moment.

4 (Off the record discussion with Defense Counsel and The
5 Defendant.)

6 MR. FRANK: That's all I have. Thank you.

7 THE COURT: Redirect examination?

8 MR. BARRY: Yes, Your Honor.

9 **REDIRECT EXAMINATION BY MR. BARRY**

10 Q. Just one thing, defense counsel started off by asking
11 you about your cooperation. In terms of your cooperation,
12 has anyone ever told you what to tell the jury?

13 A. No.

14 MR. BARRY: Thank you.

15 THE COURT: Recross examination.

16 MR. FRANK: Nothing.

17 THE COURT: You are excused, Ms. Ely.

18 THE WITNESS: Thank you, Your Honor.

19 (The witness stepped down.)

20 THE COURT: Ladies and gentlemen, before we go further,
21 earlier you heard mention of the word bifurcation in
22 connection with Ms. Ely's testimony. I want to explain to
23 you, by agreement, the attorneys have agreed to bifurcate
24 her testimony, which means she will be recalled at a later
25 time regarding a different portion of this case. And I

1 wanted you to understand why we had been talking about
2 bifurcation.

3 You may call your next witness.

4 MR. CACCAVIELLO: Commonwealth will call George Byrd.

5 (George Byrd, sworn)

6 THE COURT: Mr. Byrd, good afternoon.

7 THE WITNESS: Good afternoon, Your Honor.

8 May I be seated?

9 THE COURT: You may.

10 If I can just remind you to keep your voice up.

11 Mr. Caccaviello, you may proceed.

12 MR. CACCAVIELLO: Thank your, Your Honor.

13 (George Byrd)

14 **DIRECT EXAMINATION BY MR. CACCAVIELLO**

15 Q. Good afternoon, sir.

16 A. Good afternoon.

17 Q. Would you start by introducing yourself to the jury?

18 A. My name is George Byrd. I'm an investigator with the
19 New York State Police.

20 Q. Sir, how long have you been employed by the New York
21 State Police?

22 A. Since September 22 of 1986.

23 Q. What is your current assignment?

24 A. My current assignment, I am assigned to the community
25 narcotics enforcement team for the State Police.

1 Q. And how long you have been assigned to that division?

2 A. December 6 of 2012.

3 Q. So prior to that, had you been assigned to another
4 division or department within the New York State Police?

5 A. Yes.

6 Q. And what was that?

7 A. I was an investigator out of the State Police barracks
8 in Fonda, New York in Montgomery County.

9 Q. And how long did you have that position?

10 A. Approximately three years.

11 Q. And what is the -- just describe, generally, what those
12 duties entail.

13 A. Responsible for the investigation of all serious
14 crimes, felonies, and certain misdemeanors.

15 Q. Now, I want to direct your attention back to August of
16 2010, particularly August 14 of 2010, did you become part of
17 an investigation in an alleged assault upon an individual
18 named Nicole Brooks?

19 A. A reported assault, yes.

20 Q. Who was the initial responding officer?

21 A. Trooper Samuel Thompson.

22 Q. And did you -- as the lead investigator in the case,
23 were you made privy to and briefed by various law
24 enforcement personnel involved in the investigation?

25 A. Yes.

1 Q. Can you tell us where the location of the reported
2 assault was?

3 A. It was approximately 9/10 of a mile north of the hamlet
4 of Wells, located Rt. 30 in Hamilton County, New York which
5 is in Central New York. It's the foothills of the
6 Adirondack Mountains.

7 Q. And is that a -- would you describe it as a rural area?

8 A. A very rural area; yes, sir.

9 Q. And, sir, I'm going to just direct your attention to
10 the screen and ask you to -- do you recognize what that is
11 depicted on the screen?

12 A. May I get up, take a look?

13 MR. CACCAVIELLO: With your permission?

14 THE WITNESS: Your Honor?

15 THE COURT: You may.

16 MR. FRANK: Judge, if I may, I don't believe this is an
17 exhibit, if it is, could it be identified?

18 MR. CAPELESS: Your Honor, this actually -- these were
19 previously admitted as exhibits, just not displayed to the
20 jury.

21 THE COURT: Your objection is it is not an exhibit and
22 Mr. Caccaviello tells me it is; is that correct?

23 MR. CACCAVIELLO: Yes, Your Honor.

24 THE COURT: Do you have the exhibit number of the item
25 on the screen?

1 MR. CACCAVIELLO: Yes, Your Honor.

2 THE COURT: Objection is overruled.

3 Q. (By Mr. Caccaviello) I'm going to direct your attention
4 to the screen and actually these are, for the record,
5 Exhibits 53, 56, 55, and 54.

6 So, now, directing your attention to the screen, can
7 you tell us what that is depicting?

8 A. That is an area adjacent to the parking area where the
9 alleged or reported attempted abduction, attempted
10 murder/robbery occurred in Hamilton County, New York.

11 Q. And showing you just again for the record, Exhibit
12 Number 53, is that the same image that's on the screen?

13 A. It is.

14 Q. Okay.

15 MR. CACCAVIELLO: We can go to the next image.

16 Q. (By Mr. Caccaviello) And, sir, showing you for the
17 record what's been marked as Number 56, is that the same
18 image that's on the screen?

19 A. Yes, sir; it is.

20 Q. And would you describe what we're looking at here?

21 A. That is the parking area, picnic area in which the
22 alleged incident occurred.

23 Q. Okay.

24 MR. CACCAVIELLO: And if -- can you go to the next?

25 Q. (By Mr. Caccaviello) Showing you, for the record, what

1 has been marked as Exhibit Number 54, is that the same image
2 that's on the screen?

3 A. It is.

4 Q. And what's the view here, and is there anything in
5 particular of interest in this photo?

6 A. That is the tree stump, the remains of the tree that we
7 cut, the State Police cut in order to retrieve the area of
8 the tree that was struck by projectiles that was reported
9 fired from a gun.

10 Q. And, in fact, had Nicole Brooks directed either your
11 attention or another member of the investigation's attention
12 to that tree trunk?

13 A. Yes, she directed my attention as well as other members
14 of the investigative team.

15 Q. And for the record, Exhibit Number 55, is that the same
16 image that is on the screen?

17 A. It is.

18 Q. And what are we looking at here?

19 A. We're looking at the area that Nicole Brooks claimed to
20 have run past as she was escaping the alleged perpetrator or
21 her alleged reported abductor which is between the tree and
22 the picnic table.

23 Q. Now, sir, you mentioned in the -- one of those images
24 that the tree trunk that Ms. Brooks had directed your
25 attention to, once that -- your attention was directed

1 there, did you secure -- have that part of the tree secured
2 in any way?

3 A. Yes.

4 Q. And how so?

5 A. It was cut down, delivered to me at SP Fonda.
6 Ultimately I delivered it to our forensic investigation unit
7 actually on August 16.

8 Q. Sir, I'm going to direct your attention to an item. Do
9 you recognize what that is?

10 A. I do.

11 Q. And what is that?

12 A. That is the area of the tree that was removed in order
13 to secure or attempt to secure the projectile that was
14 inside the tree.

15 Q. And does that tree trunk actually have a defect in it
16 that caught your attention?

17 A. Had a bullet hole in it.

18 Q. Okay.

19 MR. CACCAVIELLO: Commonwealth will ask that this be
20 marked as Exhibit No. 71.

21 THE COURT: Any objection?

22 MR. FRANK: I'm sorry. No objection.

23 THE COURT: Admitted.

24 (Exhibit No. 71, tree trunk, marked)

25 MR. FRANK: Judge, may I reserve the right to examine

1 that later regarding the evidence tag?

2 THE COURT: You can examine any admitted piece of
3 evidence at any time.

4 MR. FRANK: And object if there's a portion of that --

5 THE COURT: Your rights are preserved.

6 Q. (By Mr. Caccaviello) Now, Investigator Byrd, did you
7 receive or review any information gathered by Trooper Sam
8 Thompson in this case?

9 A. Yes.

10 Q. In particular, was that -- was that a supporting
11 deposition?

12 A. Yes, sir.

13 Q. And of who?

14 A. Of Nicole Brooks.

15 Q. And as the lead investigator then, did you peruse it
16 and then make arrangements to meet with her?

17 A. Once I reviewed the supporting deposition, I requested
18 that she be returned to the scene so I could interview her
19 myself.

20 Q. And so did that meeting actually take place?

21 A. Yeah, shortly after having read the supporting
22 deposition, and she did return to the scene so I could
23 interview her at the location of the reported incident.

24 Q. And, actually, did she return alone or did she have
25 someone with her?

1 A. She returned with a person she described as her aunt.

2 Q. And once there, did she recount to you her allegations?

3 A. She did.

4 Q. Was it at that point that she directed your attention
5 to what had been marked the exhibit that is the tree trunk?

6 A. Yes.

7 Q. Now, did you also have any additional questions for
8 Ms. Brooks?

9 A. I did.

10 Q. And what were the -- I'm sorry. Did you document those
11 in any particular way?

12 A. I did in a Q and A form. It was a supplemental form to
13 the original statement.

14 Q. So that was -- you had the original supporting
15 deposition, correct?

16 A. Yes.

17 Q. So what -- do you, just mechanically then, what do you
18 do?

19 A. You take a piece of paper and you say Q denotes
20 questions asked by Investigator Byrd of the New York State
21 Police; A denotes answers of Nicole Brooks; and then
22 document those questions and her answers.

23 Q. Okay. Showing you what's been previously marked as
24 Number 68, is this the document that you're referring to?

25 A. Yes, both documents.

1 The original supporting deposition and then my
2 subsequent questions and answers.

3 Q. Now, were you also, in the course of the investigation,
4 as the investigation was ongoing, receiving other
5 information from law enforcement personnel?

6 A. Regarding?

7 Q. In particular, Pittsfield Police.

8 A. We notified Pittsfield Police at approximately 9:21 we
9 were looking for the suspect, at that time David Glasser.
10 We notified the Pittsfield Police and they advised us that
11 his vehicle --

12 MR. FRANK: Objection.

13 THE COURT: Basis of your objection.

14 MR. FRANK: From here forward, they advised us,
15 hearsay.

16 THE COURT: Are you offering this for its truth, Mr.
17 Caccaviello?

18 MR. CACCAVIELLO: No, Your Honor. This is to explain
19 the further actions of investigators.

20 THE COURT: Objection is overruled. You may answer.

21 THE WITNESS: At approximately 9:20 that same evening,
22 I contacted the Pittsfield Police Department. Inquired as
23 to whether or not the vehicle of the suspect returned to his
24 residence to 254 Linden Avenue. I believe in the City of
25 Pittsfield. It had not yet returned, and later at

1 approximately 11:00 p.m. I was advised that --

2 MR. FRANK: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: -- that the vehicle, the suspect vehicle
5 was at the residence of the suspect.

6 Q. (By Mr. Caccaviello) Okay. And by the way, again, you
7 may have said this, but the information you provided to the
8 to the Pittsfield Police, in terms of information that
9 Ms. Brooks gave you, was what, just a typed deposition?

10 A. She provided very detailed description of the suspect
11 vehicle, the plate number of the suspect vehicle as well as
12 description of the rear driver side taillight, that it was
13 broken. And based on that, we were able to identify the
14 suspect vehicle based on the license plate.

15 Q. Now, when you were contacted by the Pittsfield Police
16 Department, that the suspect vehicle had been located, did
17 you make a request of them to do anything at that point?

18 A. Yes.

19 Q. And what was that?

20 A. Periodically checked the residence to see if the
21 vehicle was still there and advise us if it had been moved
22 throughout the evening and early morning hours of the 16th
23 or the 15th, rather.

24 Q. Directing your attention then to the next day in
25 August, did you make arrangements to go to Pittsfield?

1 A. I did.

2 Q. And, in particular, what was the purpose of going and
3 did you go with anyone?

4 A. I traveled with my boss, Senior Investigator Carl
5 Meybaum to Pittsfield. And en route to Pittsfield we were
6 notified that the vehicle, the suspect vehicle had been
7 moved.

8 Q. And where -- and where did you actually end up when you
9 got to Pittsfield?

10 A. The Pittsfield Police Department.

11 Q. Now, once in Pittsfield then were you apprised of
12 whether or not Mr. Glasser's vehicle had been stopped
13 pursuant to investigation?

14 A. En route to Pittsfield, we were advised that a traffic
15 stop had been conducted and Mr. Glasser's vehicle, that
16 Mr. Glasser was in custody as he had been in possession of a
17 handgun, and that they secured the Glasser vehicle pending
18 application for a search warrant to do a thorough search of
19 the Glasser vehicle.

20 Q. And once you were notified Mr. Glasser was arrested,
21 then you ended up, you made your way to this police station,
22 correct?

23 A. That's correct.

24 Q. And once there, did you end up meeting Mr. Glasser?

25 A. I did.

1 Q. And at the station, did you have some business with
2 him?

3 A. Yes. I interviewed him. I conducted an interview of
4 Mr. Glasser with, Senior Investigator Meybaum.

5 Q. Now, prior to the interview, had he been apprised of
6 his Miranda rights?

7 A. He had been verbally and in writing.

8 Q. Overall, without telling me what he actually said, tell
9 the jury what was his demeanor.

10 A. Very comfortable, very confident, relaxed.

11 Q. How would you describe his level of being cooperative?

12 A. He was very cooperative.

13 Q. And did you actually, without telling me the results,
14 did you engage in any sort of photo arrays or business of
15 that sort with Mr. Glasser?

16 A. Yes.

17 Q. Okay. And, again, was he cooperative in those efforts?

18 A. Yes, he was cooperative throughout, answering all
19 questions directly and without hesitation.

20 Q. Now, did you have occasion to see whether there was a
21 truck that Mr. Glasser was in?

22 A. Yes, sir.

23 Q. And was that -- was it in custody at the police
24 station?

25 A. It was.

1 Q. And did you happen to notice anything in terms of its
2 license plate number -- let me re-trace that.

3 Did you note the registration and license number of the
4 truck?

5 A. I did.

6 Q. Did how did it compare with the information you had
7 from Ms. Brooks?

8 A. It was identical.

9 Q. And were you aware of whether or not that truck was
10 processed by Pittsfield Police personnel?

11 A. Yes, I watched them process the vehicle.

12 Q. Did you see -- could you see whether or not anything
13 was actually taken from the truck?

14 A. Yes.

15 Q. And what did you see?

16 A. Removed a purse, some receipts from the purse, and
17 other evidentiary items.

18 Q. And that was actually conducted by -- did you know who
19 actually conducted it?

20 A. I believe it was a CI Investigator King.

21 Q. Was this Investigator William King?

22 A. I don't recall his first name.

23 Q. Now, did you have occasion to examine the gun?

24 A. I did.

25 Q. And was there anything of note in it? Did you look

1 inside?

2 A. It was a Sturm and Ruger .22 caliber revolver.

3 Q. I will show you what has been previously marked as
4 Number 52, and does that appear to be the gun that you're
5 referring to?

6 A. Yes.

7 Q. And I'm going to show you what's been previously marked
8 as Number 42. And does that appear to be the truck of Mr.
9 Glasser that you watched being processed at the police
10 station?

11 A. It is the truck.

12 Q. Now, from the police station, did you also -- did you
13 also go to an apartment in Pittsfield?

14 A. I did.

15 Q. And do you recall where that was?

16 A. That was the residence of Mr. Glasser, which I believe
17 was 254 Linden Avenue or street in the City of Pittsfield,
18 Massachusetts.

19 Q. And while there, was -- besides law enforcement
20 personnel, was there a civilian as well in the apartment?

21 A. Yes, sir.

22 Q. And who was that?

23 A. Edward Frampton, Mr. Glasser's housemate.

24 Q. And did you, again, observe anything recovered actually
25 from the apartment?

1 A. Yes.

2 Q. And what kind of things did you see recovered from the
3 apartment?

4 A. Latex gloves which was the most significant -- from our
5 prospective, was the most significant find there as it was
6 reported that Mr. Glasser used latex gloves when he --

7 Q. Was that information Ms. Brooks had provided to you?

8 A. That's correct.

9 Q. And just did you notice anything else, any paperwork?

10 A. Yes, direction to Wells, New York, MapQuest directions
11 or computer-generated directions for travel from Pittsfield
12 to Wells, New York.

13 Q. And, again, in terms of Pittsfield Police Department
14 personnel with the same investigator, also at this scene?

15 A. Yes.

16 Q. And collecting the evidence?

17 A. Yes.

18 Q. Now, sir, I'm going to direct your attention back to
19 the tree trunk that was marked, I believe it's 71. Did you
20 have some forensic investigative work with respect to that
21 tree trunk?

22 A. Yes.

23 Q. And, in particular, what did you --

24 A. Requested that there be an attempt to remove the
25 projectile from the tree trunk, an effort to match it to the

1 handgun that was recovered.

2 Q. Okay. And who does that for the New York State Police,
3 or who did that in this case?

4 A. In this case it was Investigator now Senior
5 Investigator Drew McDonald.

6 Q. And was he able to retrieve anything from that, what
7 you described as a bullet hole in Exhibit 71?

8 A. Yes.

9 Q. And showing you an item here, can you tell us, do you
10 recognize what that is?

11 A. I don't.

12 Q. Did you learn, during the course of this, about -- can
13 you tell us what is that item?

14 A. A projectile from what appears to be a .22 caliber, a
15 small caliber bullet.

16 Q. And did you learn through the investigation that was,
17 is it Investigator McDonald, took from Number 71?

18 A. Yes, absolutely.

19 Q. And did he do some further forensic testing with
20 respect to that?

21 A. He did not, but there was an attempt to --

22 Q. Let me rephrase that.

23 Was there some more forensics done with respect to that
24 bullet?

25 A. Yes.

1 Q. And would you describe what that is?

2 A. Once he retrieved the projectile from the tree and then
3 that is forwarded to our crime lab in an attempt to match
4 this projectile to the weapon, that was recovered.

5 Q. And so showing you what's been, again, marked as Number
6 52, that weapon, can you tell us what the results of the
7 efforts to match whether that bullet came from that gun?

8 A. It was inconclusive.

9 Q. In particular, what did the actual results say about
10 it?

11 A. That the markings on the projectile could not be
12 definitively linked to that weapon.

13 Q. And in terms of whether or not that gun had -- could
14 fire that projectile, what did it say?

15 A. Yes, it could.

16 Q. But that it could not definitively say that it came
17 from that gun?

18 A. That's correct.

19 MR. CACCAVIELLO: Commonwealth would ask that the
20 projectile be marked as Exhibit 72.

21 THE COURT: Any objection?

22 MR. FRANK: No objection.

23 THE COURT: Admitted.

24 (Exhibit No. 72, projectile, marked)

25 Q. (By Mr. Caccaviello) Now, was there also some testing

1 done by the New York State forensic testing authorities with
2 regard to a wallet and some receipts?

3 A. Yes.

4 Q. And, in particular, I'm going to show you what has been
5 marked as Number 60. Is that the wallet that you recovered
6 in this part of the evidence in this case?

7 A. Yes, the Pittsfield Police Department recovered this
8 from the Glasser vehicle.

9 Q. And showing you another item, there was also some
10 receipts recovered from that wallet?

11 A. Yes.

12 Q. Okay. Do those appear to be those receipts?

13 A. The receipts that I'm viewing now are blank because the
14 chemical process used to test them actually removed the ink
15 from the original receipts, so these particular receipts
16 were photocopied and then tested. So they don't appear to
17 be the same receipts, however, they are.

18 Q. Okay. In fact, do you know whether or not they were
19 memorialized by photograph?

20 A. Yes.

21 Q. And I will show you a photograph, and is that the
22 memorialization of those receipts?

23 A. It is.

24 Q. Okay. So let me ask you, first of all, in terms of
25 processing of the physical items that you have with the

1 wallet and the receipt, was there some fingerprint testing
2 done by the New York Authorities?

3 A. Yes.

4 Q. And who is that done by?

5 A. Our Forensic Investigation Unit.

6 Q. And can you tell the results of that?

7 A. It was negative.

8 Q. And that there were no identifiable prints found?

9 A. Correct, sir.

10 Q. All right. And in terms of these receipts that are now
11 blank because of that processing, what's in the
12 photograph -- well, let me ask, first of all, the
13 photograph -- well --

14 MR. CACCAVIELLO: Can the receipts be marked, Your
15 Honor, as Exhibit No. 73?

16 THE COURT: Any objection?

17 MR. FRANK: No objection.

18 MR. CACCAVIELLO: And the photo as 74?

19 MR. FRANK: No objection.

20 THE COURT: So ordered.

21 (Exhibit No. 73, receipts from wallet, marked)

22 (Exhibit No. 74, photograph of receipts, marked)

23 Q. (By Mr. Caccaviello) Showing you what's been marked as
24 74, can you just tell the jury what it is that those
25 receipts had said? What was printed on them?

1 A. Three receipts, the most significant of the three being
2 a Price Chopper receipt, Pittsfield Store Number 140, dated
3 August 14, 2010, at 11:42 a.m.

4 There is a CVS pharmacy receipt, from August 6, and
5 then there is a Price Chopper receipt from Altamont Avenue
6 in the Town of Rotterdam, again August 5. It's dated
7 August 5.

8 Q. Now, sir, directing you to another topic on August 16,
9 2010, did you also meet with and work in conjunction with
10 Massachusetts law enforcement?

11 A. Yes.

12 Q. And had you been provided with some surveillance video
13 from Price Chopper in Pittsfield?

14 A. Yes.

15 Q. And that footage was from August 14 of 2010?

16 A. Yes.

17 Q. And had you been also provided some video footage from
18 Hess station in Perth, New York?

19 A. I believe the video was retrieved from the Hess was
20 retrieved on the 16th.

21 Q. Did you have occasion on the 16th to watch both of
22 these videos?

23 A. I had the opportunity to, however, what I viewed were
24 stills.

25 Q. And those are stills from those videos?

1 A. Correct.

2 Q. Was there anything in significance that you observed in
3 those videos -- in those stills I should say?

4 A. Yes.

5 Q. And what was that?

6 A. In the case of the receipt, I was able to identify
7 Nicole Brooks as having made a purchase from the Price
8 Chopper on August 14 at 11:42 a.m., the same day that she
9 reports an attempted abduction, attempted murder/robbery in
10 Wells, New York, Hamilton County at approximately 3:30 in
11 the afternoon.

12 And the case of the Hess surveillance, there is a
13 meeting between herself and another subject, or at least she
14 is pictured with another subject in that Hess station in
15 Amsterdam, New York which is a city in between Pittsfield,
16 Massachusetts and Wells, New York.

17 Q. And based upon your observations, did this cause the
18 investigation to take a turn?

19 A. Yes.

20 Q. In particular, in which direction was it headed now?

21 A. It was becoming more apparent that the information
22 provided by Mr. Glasser and his initial interview was
23 becoming -- it was -- he was giving an honest representation
24 of what he believed happened, which was he framed for -- he
25 was framed for this attempted abduction/attempted murder.

1 Q. In the Hess station stills with Ms. Brooks, who was the
2 other individual that you saw?

3 A. Scott Langdon.

4 Q. Now, I want to direct your attention to August 25. Did
5 you hear from Nicole Brooks asking about the progress of the
6 investigation?

7 A. Yes.

8 Q. And at that point, did you convey some information to
9 her?

10 A. Yes.

11 Q. And, in particular, what did you convey to her and what
12 was your purpose?

13 A. When I spoke to Nicole, the purpose of my conversation
14 with her was an attempt to get Mr. Langdon to make himself
15 available to law enforcement for an interview. We attempted
16 to identify where he could be located to interview him in
17 regards to the case. We couldn't find him.

18 So during that call, Ms. Brooks was trying to move the
19 process along, she wanted to know why Mr. Glasser was yet to
20 be charged with the incident in Wells.

21 During that conversation, I communicated to Nicole that
22 Mr. Glasser would never be charged until such time as we had
23 an opportunity to talk to Mr. Langdon, telling her he could
24 be a victim of a crime himself, or he could be involved in
25 the attempted robbery that took place or reportedly took

1 place up in Wells.

2 The only reason for that communication was to get
3 Mr. Langdon to get in touch with us. We told her if we had
4 not heard from him then we would have to take a closer look
5 at the case, and maybe make a more thorough investigation as
6 to the facts of the reported crime.

7 Q. So then next day did you hear from Mr. Scott Langdon?

8 A. We did.

9 Q. And did Mr. Langdon come to New York to provide a
10 statement?

11 A. No.

12 Q. How did that statement -- did he -- I'm sorry.

13 Did he give you a statement?

14 A. He did.

15 Q. And where did that take place?

16 A. That took place in the Pittsfield Police Department.

17 THE COURT: Mr. Caccaviello, would this be a convenient
18 time to break for the lunch recess?

19 MR. CACCAVIELLO: Yes, Your Honor, I probably have
20 another five minutes, so it makes some sense.

21 THE COURT: All right. Ladies and gentlemen, we are
22 going to take the luncheon recess.

23 Please bear in mind my cautionary instructions.

24 During lunch, don't discuss the case among yourselves
25 or make any efforts to gather information related to the

1 case.

2 You are now excused.

3 We will see you at two o'clock.

4 (The jury exited at 12:59 p.m.)

5 THE COURT: Mr. Byrd, you may step down.

6 We are in recess.

7 (The Court exited.)

8 (* * * * *)

9 (The Court entered at 1:58 p.m.)

10 (The defendant was present.)

11 THE COURT: Counsel, are we ready to bring the jury
12 back in.

13 MR. CACCAVIELLO: Yes, Your Honor.

14 THE COURT: Bring Mr. Byrd back in, please.

15 (The jury entered at 2:03 p.m.)

16 THE COURT: Mr. Caccaviello, when you are ready you may
17 resume your direct examination of Mr. Byrd.

18 MR. CACCAVIELLO: Thank you, Your Honor.

19 (George Byrd, continued)

20 **DIRECT EXAMINATION BY MR. CACCAVIELLO**

21 Q. Good afternoon, again.

22 I will direct you again to conversation with Scott
23 Langdon and again orienting yourself, you had called -- I am
24 sorry, he had called in and ultimately made arrangements to
25 meet in Pittsfield to take a statement; is that right?

1 A. Yes, sir.

2 Q. And did he provide you with a written statement?

3 A. He did.

4 Q. And, in general, does he describe that New York trip?

5 A. He does.

6 Q. And does he indicate he never met Nicole Brooks in the
7 first statement?

8 A. Yes.

9 Q. Now, at this point, Investigator Byrd, can you tell the
10 jury what was the focus of this investigation?

11 A. Initially the focus was to investigate the report of
12 Nicole Brooks. When it became apparent there may be some
13 truth to Mr. Glasser's defense or his explanation of what
14 had occurred, then the focus became proving that there was a
15 conspiracy to frame Mr. Glasser and falsely report that he
16 attempted to abduct, murder, and rob Nicole Brooks.

17 Q. So on August 27 of this investigation, did you again
18 meet with Ms. Brooks?

19 A. I did.

20 Q. And where did that encounter take place?

21 A. That was at the State Police barracks in Fonda, New
22 York.

23 Q. And at the barracks, did you show her some items?

24 A. I did.

25 Q. And what items did you show her?

1 A. The purse, wanted her to identify the purse as her own.

2 Q. And did she do that?

3 A. She did.

4 Q. And what about anything in terms of the statement that
5 she had earlier provided, the deposition and your original
6 question?

7 A. Yes. I wanted her to review the deposition that she
8 provided to make sure it was accurate, to make whatever
9 changes she would like to make. In regard to her
10 deposition, if there was something inaccurate or false, she
11 had the opportunity to correct that.

12 There was a number -- two or three corrections she
13 made, all insignificant.

14 Q. And did you also show her a picture of an individual?

15 A. Yes.

16 Q. Who did you show her?

17 A. She was shown a picture of Scott Langdon.

18 Q. And did she indicate to you whether or not she was
19 familiar with Scott Langdon?

20 A. She said she had never saw Scott Langdon, never met
21 him. Didn't know him.

22 Q. Now, at that point, Investigator, was she confronted
23 with the results of your now refocused investigation?

24 A. Yes.

25 Q. And was she provided Miranda warnings?

1 A. She was.

2 Q. And at that point did she provide an interview?

3 A. Yes, she did.

4 Q. And, ultimately, was she charged within the State of
5 New York with a series of offenses?

6 A. She was.

7 Q. What were the offenses?

8 A. Falsifying business records, first degree felony, and
9 falsely reporting an incident, third degree.

10 MR. CACCAVIELLO: May I have a moment, Judge?

11 THE COURT: You may.

12 (Off the record discussion amongst The Commonwealth.)

13 MR. CACCAVIELLO: No further questions.

14 THE COURT: Mr. Frank, you may cross examine.

15 MR. FRANK: Thank you.

16 **CROSS EXAMINATION BY MR. FRANK**

17 Q. Trooper, I'm Attorney Don Frank. I represent
18 Mr. Chalue.

19 It is Trooper, correct?

20 A. Yeah.

21 Q. Trooper or investigator?

22 A. My current ranker is investigator, but we're all
23 troopers.

24 Q. Okay. Investigator, you found some latex gloves at
25 Mr. Glasser's property, correct?

1 A. I didn't find them, but yes, I saw them being
2 recovered.

3 Q. Okay. And it's not necessarily unusual to find latex
4 gloves in a residence; is that right?

5 A. Not at all.

6 Q. And in regard to the tactics involving getting
7 Ms. Brooks and others to give you a -- to tell you something
8 or to give you a different story, it's -- one of the tactics
9 is to advise them that if District Attorney and the
10 prosecutors will look kindly on their cooperation; is that
11 fair to say?

12 MR. CACCAVIELLO: Objection Your, Honor.

13 THE COURT: Overruled. You may answer.

14 THE WITNESS: I would say that there would be some
15 consideration for the cooperation.

16 Q. (By Mr. Frank) Okay. And, in fact, what you told at
17 least Ms. Brooks is the criminal justice system can be very
18 forgiving.

19 Do you recall telling her that?

20 A. Yes, I did.

21 Q. And you told her that if she cooperated, the likelihood
22 that whatever would happen to her in New York would run
23 concurrent, which means that it happens at the same time;
24 you did tell her that as well, correct?

25 A. I think that is partially what was said in the

1 conversation with Ms. Brooks. Ultimately, I believe, that I
2 concluded that with any decision regarding what would happen
3 to her would be made by the District Attorney in that
4 county.

5 Q. Okay.

6 A. Which makes all decisions, ultimately, as it deals with
7 defendants.

8 Q. All right. And it's your understanding that's true for
9 Massachusetts District Attorney's as well, correct?

10 A. I don't know how Massachusetts criminal justice system
11 works.

12 Q. Well, you did tell -- there are charges in New York and
13 there are charges in Massachusetts that you were considering
14 filing against Ms. Brooks at the time you talked to her; is
15 that correct?

16 A. I could not bring any charges against Ms. Brooks in
17 Massachusetts.

18 Q. But you were in touch with detectives -- Trooper Foley,
19 correct?

20 A. That would be Lieutenant Foley, yes.

21 Q. Excuse me, Lieutenant Foley.

22 And, in fact, he was present with at least one of the
23 interviews with Ms. Brooks, correct?

24 A. He was.

25 Q. And at the one that he was -- and he was there because

1 he was interested in investigating charges against Nicole
2 Brooks and Adam Hall, correct?

3 A. Correct.

4 Q. Okay. And you understand that there are charges
5 ultimately filed against Ms. Brooks in New York, correct?

6 A. Yes, I brought those charges.

7 Q. And you understood that Lieutenant Foley was
8 considering bringing charges against Ms. Brooks in
9 Massachusetts, correct?

10 A. Correct.

11 Q. And you told Miss Brooks that they say that they can
12 keep you in New York initially and your cooperation from
13 that point on is going to set the tone for what happens
14 after tonight. Do you recall telling her that?

15 A. I don't recall telling her that, but that would be a
16 likelihood that yes, I would have.

17 Q. Okay. All right. And, basically, what you're saying,
18 it's likely you would have told her if she cooperates it
19 sets the tone for what happens to her later in both New York
20 and in Massachusetts?

21 A. I'm not necessarily -- I mean, in this instance, the
22 Hamilton County Jail in Upstate New York is not the worse
23 place to be. It's literally jail space for two or three
24 prisoners, sometimes there's only one inmate in the Hamilton
25 County Jail. Her being a female, she might be transferred

1 down to Fulton County Jail, which again, is an upstate
2 prison. It's not the worse prison to be in or the worst
3 jail to be in, and so there would be some question as to
4 whether or not she could stay in New York pending charges
5 being placed against her in Massachusetts or there's --
6 there was a number of options available to the District
7 Attorneys' Offices in both New York and Massachusetts. So,
8 it would -- could be some consideration based on her
9 cooperation.

10 Q. Okay. So thank you.

11 One of the considerations, when you make that
12 statement, is to let her know if she cooperates there could
13 be some quote/unquote consideration offered by the District
14 Attorney?

15 A. That's correct.

16 Q. And that's true both of a District Attorney in Hamilton
17 County, New York and Berkshire County, New York -- excuse me
18 Massachusetts, correct?

19 A. I don't know. Again, Massachusetts I'm unfamiliar
20 with. Okay, and how it works.

21 MR. FRANK: Thank you.

22 THE COURT: Redirect examination?

23 MR. CACCAVIELLO: Just for clarification.

24 **REDIRECT EXAMINATION BY MR. CACCAVIELLO**

25 Q. So you made her no specific promises?

1 A. No, there were no promises made to Nicole Brooks for
2 her cooperation.

3 THE COURT: Recross examination based on those
4 questions?

5 MR. FRANK: No.

6 THE COURT: Mr. Byrd, you are excused.

7 You may step down.

8 Thank you.

9 You may call your next witness.

10 MR. CACCAVIELLO: Commonwealth will call Gary Herland.

11 (Gary Herland, sworn)

12 THE COURT: Mr. Herland, good afternoon.

13 THE WITNESS: Good afternoon, sir.

14 THE COURT: If I could remind you to keep your voice up
15 and answer only the question put to you, sir, please.

16 THE WITNESS: Yes.

17 (Gary Herland)

18 **DIRECT EXAMINATION BY MR. CACCAVIELLO**

19 Q. Would you start by introducing yourself to the jury?

20 A. Gary Herland, Pittsfield Police Officer.

21 Q. How long have you been employed by the Pittsfield
22 Police Department?

23 A. Eighteen years.

24 Q. And which department or division are you assigned to?

25 A. Patrol.

1 Q. And have you been in patrol for the tenure of your
2 career?

3 A. Yes, sir.

4 Q. Now, I want to direct your attention back to August 15,
5 2010. Did you happen to be working that day?

6 A. I was.

7 Q. And what shift did you have?

8 A. That would be the day shift.

9 Q. Day shift runs from what to what?

10 A. Eight o'clock in the morning to 4:30 in the afternoon.

11 Q. To report for that shift, are you in full dress
12 uniform?

13 A. Yes.

14 Q. Do you have equipment such as a gun belt and other
15 equipment associated with law enforcement?

16 A. Yes, sir.

17 Q. And are you assigned to a marked patrol cruiser?

18 A. I am, sir.

19 Q. Around 10:30 in the morning on that shift, did you
20 respond to the location of Pittsfield?

21 A. I did.

22 Q. And what was the purpose of your response?

23 A. I was -- responded to area of Linden Street and Center
24 Street to assist Lieutenant Bradford in a motor vehicle
25 stop.

1 Q. And beside yourself, did other officers respond as
2 well?

3 A. Yes, sir.

4 Q. And how -- approximately, how many, if you recall?

5 A. I believe there was two other units.

6 Q. And upon arrival, did you see, at that location,
7 besides law enforcement personnel, did you see someone else?

8 A. There was a vehicle that Lieutenant Bradford stopped
9 with an occupant.

10 Q. And what kind of vehicle was that?

11 A. It was a black Dodge pickup truck.

12 Q. And was there an occupant in the vehicle?

13 A. There was.

14 Q. And did you recognize who that was?

15 A. I did.

16 Q. And who was that?

17 A. That was David Glasser.

18 Q. And at the scene, was there any interaction with
19 Mr. Glasser?

20 A. Mr. Glasser was removed from the vehicle, he was pat
21 frisked and handcuffed.

22 Q. And at this juncture can you describe for the jury what
23 his demeanor was?

24 A. He was cooperative with the process.

25 Q. And did officers have weapons drawn?

1 A. In that situation we would of either been ready with
2 our firearms or had them out. I can't recall which we did
3 at that point. We were in a thick heavy area.

4 Q. You say, you've testified "in that situation". What
5 was the situation as you understood it when you responded
6 there?

7 A. We were briefed during roll call that day to Be On the
8 Look Out for this vehicle and the operator based on an
9 incident that happened in New York the day before where a
10 firearm was used.

11 Q. And when Mr. Glasser was pat frisked and handcuffed,
12 was he taken away from the immediate area?

13 A. He was moved back away from his truck, yes.

14 Q. And with respect to the truck, did you have some
15 responsibility or were you assigned to a particular task?

16 A. I did.

17 Q. And what was that?

18 A. Myself and Officer Wendling began a protective sweep of
19 the cab of the truck.

20 Q. And during the course of that protective sweep, did you
21 come across anything?

22 A. I did.

23 Q. And first of all, where did you come across an item?

24 A. Behind the driver's seat, located directly behind it.

25 Q. Okay. And what -- and, actually, what did you come

1 across?

2 A. I found a black revolver that was in a light-colored
3 plastic bag with a T-shirt.

4 Q. Showing you first, previously marked as Number 52, do
5 you recognize that to be the item that just described?

6 A. Yes.

7 Q. And was located behind the seat?

8 A. Yes, it was.

9 Q. And you described it was -- it didn't -- it didn't
10 appear to you as it appears today, correct?

11 A. That's correct.

12 Q. What was it contained in?

13 A. It was inside of a light-colored plastic bag and inside
14 that bag was then wrapped in a white shirt.

15 Q. First, let me show you an item, ask you to just take a
16 look at that for a moment and is that -- do you recognize
17 what that appears to be?

18 A. That was the shirt that was wrapped around the plastic
19 bag.

20 Q. I'm sorry. Was that wrapped around the gun?

21 A. No, the gun was inside of the plastic bag and this was
22 wrapped outside of the -- so the bag was wrapped inside of
23 the shirt.

24 Q. Okay.

25 MR. CAPELESS: Commonwealth would ask that the shirt be

1 marked as Exhibit No. 75.

2 MR. FRANK: No objection.

3 THE COURT: Admitted.

4 (Exhibit No. 75, white shirt, marked)

5 Q. (By Mr. Caccaviello) And showing you this item, do you
6 recognize what that appears to be?

7 A. That appears to be the bag that the gun was in, yes.

8 MR. CACCAVIELLO: Commonwealth would ask that this be
9 marked as Exhibit 76.

10 MR. FRANK: No objection.

11 THE COURT: Admitted.

12 (Exhibit No. 76, plastic bag, marked)

13 Q. (By Mr. Caccaviello) I'm going to place a photo in
14 front of you and ask you, do you recognize what that appears
15 to depict?

16 A. It appears to be the area this was behind the driver's
17 seat in Mr. Glasser's truck.

18 Q. Is that the area in which was previously been --
19 described as the gun, that's where that was located?

20 A. Yes, sir.

21 MR. CACCAVIELLO: Commonwealth will ask this be marked
22 as 77.

23 MR. FRANK: No objection.

24 THE COURT: Admitted.

25 (Exhibit No. 77, photograph, marked)

1 MR. CACCAVIELLO: If I could have one moment, Judge?

2 THE COURT: You may.

3 (Pause)

4 Q. (By Mr. Caccaviello) Now, sir, after you recovered the
5 firearm from the back of that truck, what did you do?

6 A. I advised Lieutenant Bradford of my findings and I
7 believe Captain Barry was then called to the scene.

8 Q. And did you, yourself, do any further examination of
9 that firearm?

10 A. I did.

11 Q. And what did you do?

12 A. I just needed to verify that it was an actual real gun,
13 which I did.

14 Q. How did you do that?

15 A. Just by removing the bag out, out of the bag a little
16 bit and just looking at it making sure that it was a real
17 gun.

18 Q. And did you replace the bag, did you replace firearm?

19 A. I did.

20 Q. Also, did you, you know, were you aware whether or not
21 a check was done whether or not Mr. Glasser had proper
22 licensing?

23 A. A check was done, yes.

24 Q. And you determine he did not have a proper license?

25 A. He did not have a license, correct.

1 Q. Now, what -- was he arrested at the scene?

2 A. He was.

3 Q. With respect to the truck itself, what happened to the
4 truck?

5 A. The truck was towed to the police station.

6 Q. And at the station was a -- do you know whether or not
7 further inventory search was done of that truck?

8 A. I believe a further search was done, yes.

9 Q. And beyond what you already described as the gun and
10 the shirt and the bag, was there anything else of
11 significance, evidentiary wise, that was recovered at least
12 from your point of view?

13 A. No, sir.

14 (Off the record discussion amongst The Commonwealth.)

15 Q. (By Mr. Caccaviello) A couple further questions,
16 Officer Herland.

17 During this entire encounter with the law enforcement,
18 at the scene, Mr. Glasser's demeanor you described as being
19 cooperative; is that correct?

20 A. Yes, sir.

21 Q. How -- would you have any other description of how he
22 appeared when interacting with law enforcement?

23 A. He appeared confused as to why we were dealing with him
24 and the reason for the stop.

25 MR. CACCAVIELLO: No further questions.

1 THE COURT: Mr. Frank, you may cross examine.

2 MR. FRANK: No questions.

3 THE COURT: You're excused, Officer, thank you.

4 THE WITNESS: Thank you.

5 (The witness stepped down.)

6 THE COURT: You may call your next witness.

7 MR. CACCAVIELLO: Commonwealth will call William King.

8 (William King, sworn)

9 THE COURT: Officer, good afternoon.

10 THE WITNESS: Good afternoon, Your Honor.

11 THE COURT: If I could remind you to keep your voice up
12 and answer only the question put to you, please.

13 THE WITNESS: Yes.

14 THE COURT: You may proceed, Mr. Caccaviello.

15 MR. CAPELESS: Thank you, Your Honor.

16 (William King)

17 **DIRECT EXAMINATION BY MR. CACCAVIELLO**

18 Q. Sir, will you start by introducing yourself to the
19 jury?

20 A. Investigator William King, Pittsfield Police.

21 Q. And how long have you been with the Pittsfield Police
22 Department?

23 A. Approaching 14 years.

24 Q. And your current assignment is what?

25 A. Crime Scene Investigator.

1 Q. How long have you held that position?

2 A. Almost six years.

3 Q. What does a Crime Scene Investigator do?

4 A. Well, primarily I'm trained in fingerprint recovery
5 techniques, fingerprint comparison, crime scene photography,
6 crime scene management, evidence collection, DNA collection.

7 Q. I want to direct your attention back to August 15,
8 2010. Were you scheduled to work that day?

9 A. I was the on-call Crime Scene Investigator covering
10 that weekend.

11 Q. And around 3 o'clock that afternoon, were you called in
12 to work?

13 A. Yes, I was.

14 Q. And were you apprised of the reason you were called in
15 to work?

16 A. Yes, I was.

17 Q. And, in general, what was the reason you were called
18 in?

19 A. Captain Barry called me in to work to assist New York
20 State Police with an ongoing investigation and possibly a
21 search of a motor vehicle that we had secured in our garage.

22 Q. And were you apprised of any of the basis of the
23 investigation?

24 A. Yes.

25 Q. And in general terms, what was your understanding?

1 A. It was an investigation took place previous night in
2 Wells, New York involving a pickup truck that was later
3 located in Pittsfield Sunday morning.

4 Q. Now, did you, as part of when you came in, part of your
5 work, did you have occasion to see a truck that was seized
6 pursuant to the investigation?

7 A. Yes, I did.

8 Q. And what kind of truck was it?

9 A. It was a 2002, it was a black Dodge Ram pickup truck.

10 Q. And did you learn whose truck that was?

11 A. Yes.

12 Q. Whose truck was that.

13 A. It was -- it belonged to David Glasser.

14 Q. I'm going to show you what has previously been marked
15 as Exhibit Number 42.

16 A. That's correct. That's the truck.

17 Q. That's the truck you are referring to?

18 A. Yes, it is.

19 Q. And did you begin to process that truck?

20 A. Yes. I photographed the exterior and interior and I
21 conducted a search of the interior.

22 Q. And during the course of that search, had you, prior to
23 making the search, actually been made privy to whether or
24 not there was an item in there of any note?

25 A. Previously, yes. It was recovered earlier.

1 Q. And that was what?

2 A. That was a Ruger .22 caliber revolver.

3 Q. And so, in the course of your search, did you recover
4 that item from the truck?

5 A. That item had already been recovered.

6 Q. And provided to you in your capacity as the evidence
7 officer?

8 A. Yes, it was.

9 Q. And that item, does that appear to be what has already
10 been marked as Number 52?

11 A. That would be the Ruger revolver, yes.

12 Q. And was it also accompanied by a white shirt as well as
13 a plastic bag?

14 A. The plastic bag was with the revolver and the white
15 shirt was still in the pickup truck.

16 Q. And showing you what's been marked as 75, does this
17 appear to be the shirt that you were just referring to?

18 A. Yes, it is.

19 Q. Showing you what's marked as 76, does this appear to be
20 the bag that you're referring to?

21 A. Yes.

22 Q. Now, focusing your attention on what's been marked as
23 Number 52, the firearm, did you have occasion to further
24 examine its interior?

25 A. I photographed the firearm.

1 Q. And what did you notice about whether or not it was
2 loaded?

3 A. It was loaded.

4 Q. And did you, can you tell the jury how many bullets
5 were in it?

6 A. Well, there are four shell casings in the cylinder that
7 were spent. They were fired already and there were two live
8 rounds in the cylinder.

9 Q. And did you memorialize that in -- by paragraph?

10 A. Yes, I did.

11 Q. And I'm going to show you what's a photograph. And can
12 you tell the jurors what that is?

13 A. That's the photograph of the cylinder that's been
14 removed from the revolver, and it shows four rounds that had
15 been fired, two live rounds.

16 MR. CACCAVIELLO: Commonwealth will ask that be marked
17 as 78?

18 MR. FRANK: No objection.

19 THE COURT: Admitted.

20 (Exhibit No. 78, photograph, marked)

21 Q. (By Mr. Capeless) And, sir, I direct your attention to
22 the screen.

23 A. Okay.

24 Q. And is that what -- is that Exhibit No. 78 that you
25 just referred to?

1 A. Yes, it is.

2 Q. And can you tell the jury -- you can use this pointer.

3 A. Sure.

4 Q. How are you able to determine what's a live round and
5 what is a spent round?

6 A. Okay. If you look at 12 o'clock here, you see a firing
7 pin mark, a little indentation at the top of the round right
8 there. That indicates it's been fired. You have one here,
9 here, and here. And these two rounds are live, they haven't
10 been fired yet.

11 MR. CACCAVIELLO: You can take that down.

12 Q. (By Mr. Caccaviello) Now, sir, did you also have some
13 duties in regard to evidence collection from Mr. Glasser's
14 residence?

15 A. Yes.

16 Q. And did you go there yourself or with other law
17 enforcement?

18 A. No, I went with Captain Barry, Pittsfield Police
19 Detective Koenig Pittsfield Police, and Trooper Byrd, and
20 Trooper Meybaum from the New York State Police.

21 Q. And at that residence, besides the law enforcement, as
22 you've just described, was there a civilian on site?

23 A. Yes.

24 Q. And who was that?

25 A. Ed Frampton.

1 Q. And did you undertake a search of that apartment?

2 A. Yes.

3 Q. And part of the items recovered, did you find some
4 directions?

5 A. Yes, we did.

6 Q. And showing you that item, can you describe for the
7 jury what it is that you --

8 A. Yes. He had written directions to Wells, New York.

9 It's going to be this folder right here. (Indicating)

10 Q. And is there another item there as well?

11 A. Yeah.

12 Q. An envelope?

13 A. Yes. These two MapQuest directions; is that what
14 you're referring to?

15 Q. Yes.

16 A. They were actually recovered from the pickup truck.

17 MR. CACCAVIELLO: Commonwealth will ask that those be
18 marked as 79.

19 THE COURT: Any objection?

20 MR. FRANK: No objection.

21 THE COURT: Admitted.

22 (Exhibit No. 79, MapQuest/documents recovered from
23 pickup truck, marked)

24 Q. (By Mr. Caccaviello) Now, just referring back to the
25 truck search again, just to finish that chart up, do you,

1 besides the gun, recover some other items?

2 A. Yes.

3 Q. And what were they?

4 A. The white T-shirt was collected from the behind the
5 storage area behind the driver seat, a black woman's wallet
6 was collected from the storage area behind the driver's
7 seat. It was actually wrapped in the white T-shirt. Two
8 cell phones were recovered from the driver seat and center
9 console. MapQuest direction from Pittsfield, Mass. to
10 Wells, New York was recovered from the front passenger
11 floor. Another set of MapQuest directions from Wells, New
12 York to Pittsfield was collected underneath the center
13 console arm rest.

14 Q. Was there also contained in the wallet some receipts?

15 A. Yes.

16 Q. I'm sorry, what were they?

17 A. Yes, three receipts.

18 Q. And were those items ultimately turned over to, as well
19 as the firearm, and the shirt in the bag, and turned over to
20 New York, the authorities, to process?

21 A. That's correct.

22 MR. CACCAVIELLO: Could I have one moment, Judge?

23 (Pause)

24 (Off the record discussion amongst The Commonwealth.)

25 MR. CACCAVIELLO: I have nothing else.

1 THE COURT: Mr. Frank, you may cross examine.

2 MR. FRANK: Nothing.

3 THE COURT: All right. Mr. King, you are excused.

4 Thank you.

5 THE WITNESS: Thank you, Your Honor.

6 (The witness stepped down.)

7 THE COURT: You may call your next witness.

8 MR. CAPELESS: Commonwealth calls to the stand David
9 Foley.

10 MR. FRANK: Judge, perhaps we could remove the exhibit.

11 THE COURT: Yes.

12 (David Foley, sworn)

13 THE COURT: Mr. Foley, good afternoon.

14 THE WITNESS: Good afternoon.

15 THE COURT: You have been in the courtroom to hear my
16 instructions to other witnesses, have you not?

17 THE WITNESS: Yes, I have.

18 THE COURT: Please bear my instructions in mind.

19 You may proceed.

20 MR. BARRY: Thank you, Your Honor.

21 (David Brian Foley)

22 DIRECT EXAMINATION BY MR. BARRY

23 Q. First of all, please tell the jury your name.

24 A. It's Lieutenant David Brian Foley.

25 Q. And you're a lieutenant with what force?

1 A. The Massachusetts State Police.

2 Q. How long have you been with the Massachusetts State
3 Police?

4 A. Twenty-nine years this July.

5 Q. What's your current assignment for the Mass. State
6 Police?

7 A. I'm assigned to Berkshire Detective Unit, which is
8 attached to Berkshire County District Attorney's Office.

9 Q. How long have you been at the detective unit?

10 A. About 26 years.

11 Q. In terms of this case, were you involved both in the
12 investigation of Adam Hall for the July 2009 case involving
13 David Glasser, the taking of his pickup truck; and the 2010
14 case for the alleged frame in New York?

15 A. Yes.

16 Q. And were you the lead investigator in both the 2009
17 case and the 2010 case?

18 A. Yes.

19 Q. First, what I want to do is ask about the July 2009
20 case and then we will move on to the 2010 case.

21 In July 23, 2009 were you present for the interview
22 that the State Police had with Dave David Glasser?

23 A. I was in the office, yes.

24 Q. And do you know if, during that interview, Mr. Glasser
25 received a phone call?

1 A. Yes.

2 Q. And while at the interview, did you get a chance to see
3 Mr. Glasser?

4 A. Yes, I did.

5 Q. And did he -- did you get a chance to see certain parts
6 of his body at some point during the interview?

7 A. Yes, sir.

8 Q. I'm going to show you what's been marked Exhibit 44
9 through 47.

10 In terms of Exhibit 44, 45, 46 and 47, do you recognize
11 what's depicted in those photographs?

12 A. Yes, sir.

13 Q. And what was that, what are those depictions of?

14 A. They were the injuries that David Glasser showed us on
15 his elbow, on the upper portion of his lower right leg and
16 ankle.

17 Q. Did they appear to be fresh injuries?

18 A. There was bruising and some swelling.

19 Q. After hearing from Mr. Glasser and after the phone
20 call, what if anything, did State Police do when the
21 interview was completed?

22 A. Well, a little bit later that evening Adam Hall was
23 arrested.

24 Q. So did you go out looking for Mr. Hall?

25 A. I sent people out to do that, yes.

1 Q. And when he was arrested, what happened to the car that
2 he was in?

3 A. His car was secured and then we applied for a search
4 warrant.

5 Q. Okay. In addition to search warrant for his car, did
6 the police apply for a search warrant for anything else?

7 A. Yes.

8 Q. What would that be?

9 A. It would be 40 East Main Road in Peru, his residence.

10 Q. In terms of 40 East Main Road in Peru, showing you
11 what's been marked as Exhibit 40, could you just describe
12 what kind of property this is?

13 A. It's a very rural area in Peru.

14 Q. When the police applied for and received a search
15 warrant for that residence, was there one specific item the
16 police were looking for?

17 A. Mr. Glasser's pickup truck.

18 Q. And did the police find the pickup truck on July 23?

19 A. No.

20 Q. And going forward just a couple days to August 1, 2009,
21 did the police find anything on this day?

22 A. Yes.

23 Q. And what would that be?

24 A. Mr. Glasser's truck.

25 Q. And where did the police find Mr. Glasser's pickup

1 truck?

2 A. It was at a local taxi company in the parking lot.

3 Q. Police have any idea how the pickup truck arrived
4 there?

5 A. No.

6 Q. Now, I want to bring your attention to a year later to
7 August of 2010.

8 To your knowledge, is Mr. Hall's case with Mr. Glasser
9 as a victim, in terms of the pickup truck still pending.

10 A. Yes, it was.

11 Q. And in which court was that case pending?

12 A. Berkshire Superior Court.

13 Q. And, to your knowledge, was that case getting close to
14 be called for trial?

15 A. It was on the Fall list, so it was on, like, the
16 September trial list.

17 Q. On August 14, 2010, right before that September trial
18 list, did you receive some information about David Glasser
19 and something occurring in New York?

20 A. I believe I first heard about it on the 15th.

21 Q. Okay. And what did you hear?

22 A. That Mr. Glasser was involved in an attempted
23 abduction/robbery and potential murder of a female out in
24 the Adirondacks in New York.

25 Q. And did you find out the police found -- did you find

1 out if Mr. Glasser was arrested?

2 A. Yes.

3 Q. And did the police find anything in his pickup truck
4 when he was arrested?

5 A. Yes, a handgun and a woman's purse or wallet.

6 Q. After you found this information out, did you get a
7 chance to either speak to or look at some New York State
8 Police reports?

9 A. I did both.

10 Q. And after doing that, did you find out if there was
11 anything that caught the police's attention in terms of what
12 was found specifically in terms of the wallet that was found
13 in Mr. Glasser's truck?

14 A. Yes, sir.

15 Q. And what would that be?

16 A. Specifically, what was --

17 Q. What caught the police's attention, yes.

18 A. My attention was a receipt for the Price Chopper in
19 Pittsfield.

20 Q. All right. I'm going to show you what's been marked as
21 Exhibit 74. And I'm going to put an image --

22 Is this the exhibit in front of you -- is the exhibit
23 in front of you and the item and the image on the screen the
24 same thing?

25 A. Yes, it is.

1 Q. Now, sir, there's a pointer in front of you. Was there
2 a particular receipt that caught your attention?

3 A. This one over here on the left-hand side which is the
4 Price Chopper receipt -- excuse me -- for the Pittsfield
5 store on the date in question, which is 8/14/2010 and then I
6 think it was 11:42 a.m. down here where the purchase was.

7 Q. And why did that catch your attention?

8 A. Well, the alleged crime was supposedly a -- for lack of
9 a better term, a stranger danger involving Nicole Brooks.
10 Some guy tried to abduct her, so why would Ms. Brooks be in
11 Pittsfield on the same date in question of David Glasser
12 attempting to abduct her. Of course, David Glasser being a
13 witness in my trial that we have.

14 Q. So did the police do any further investigation of the
15 Price Chopper receipt?

16 A. Yes.

17 Q. And can you explain to the jury what that was?

18 A. Price Chopper also has security video, and there's
19 security video for that transaction was able to show a woman
20 making a transaction, turns out to be Nicole Brooks. So we
21 sent a still shot of the woman to the investigators in New
22 York, Investigator Byrd and Meybaum and say, Is this the
23 woman; they said yes.

24 Q. And what did police do next in terms of the
25 investigation?

1 A. Well, we really wanted to check into this Nicole Brooks
2 to see if there was any connection with her and Mr. Adam
3 Hall.

4 Q. And how did you do that?

5 A. One way we did it was on social media, so like Myspace.
6 Back then it was still being used.

7 Q. Okay. And did you find out if they were friends?

8 A. Yes, there was a Nicole NB -- Nicole on his Myspace.
9 And Nicole's page she referenced a deceased brother.

10 We then did a new search of the area and saw that there
11 was a boy by the name of Donald, the Third, that died in an
12 accident. And he left behind, you know, named family
13 members. And one of those family members being Nicole
14 Brooks.

15 Q. So you found a connection between Mr. Hall and
16 Miss Brooks through that?

17 A. Yes.

18 Q. And did you, as a result of that, did you subpoena
19 anything?

20 A. Well, I didn't. I requested the DA's Office to
21 subpoena telephone records. Of course, by this time we knew
22 from Mr. Glasser he was with Scott Langdon, so we went --
23 Mr. Langdon and Ms. Brooks, Adam Hall, Alex Ely.

24 Q. I'm going to show you what's been marked as -- I'm
25 going to show you several phone records.

1 First, I want to show you Exhibit 69, which has been
2 identified as Mr. Langdon's cell phone records. Did you get
3 a chance to analyze that?

4 A. Yes, we did.

5 Q. All right. I will show you what has been marked as
6 Exhibit 36. It's been identified as Ms. Brooks' cell phone
7 records. Did you get a chance to review that in your
8 investigation?

9 A. Yes, we did.

10 Q. And I will show you what's been marked as Exhibit 34.
11 What has been identified as Ms. Alexandra Ely's phone
12 records. Did you get a chance to analyze that at some point
13 in your investigation?

14 A. Yes, we did.

15 Q. And lastly, I'm going to show you what's been
16 identified as Exhibit 29. What has been identified as
17 Mr. Hall's cell phone records. Did you get a chance to look
18 and review that at some point in your investigation?

19 A. Yes, we did.

20 Q. In terms of --first of all, Mr. Langdon's cell phone
21 records of 281-4464, did you, at some point, make a chart
22 about those cell phone records?

23 A. Yes, sir.

24 Q. Okay. And how did you create such a chart?

25 A. The telephone records don't come in paper form. They

1 come in on a disk, so they're electronic. So all I did was
2 open those up, and it's like an Excel spreadsheet. And then
3 I open up a Microsoft Word document and all you do is copy
4 those, bring them over to the Word document, create a table.
5 I just added one additional column.

6 Q. And beside that one additional column, did you make any
7 other alterations to the phone records?

8 A. No.

9 Q. And what was that one additional column that you made?

10 A. One additional column, I put the name of the person.
11 So if I had Scott Langdon's telephone calls, the person that
12 was having contact with Scott Langdon's phone, I put that
13 name in red in the column.

14 Q. Okay. I'm going to show you a three-page document and
15 ask you to look at that. And ask you, is that a chart you
16 created in terms of Mr. Langdon's phone calls?

17 A. Yes, sir.

18 Q. Is that a true representation of his cell phone records
19 from August 13, 2010 to August 14, 2010 that you would
20 subpoena in prior?

21 A. Yes, sir.

22 MR. BARRY: At this point, Your Honor, I would like to
23 mark this for Identification to use as a chalk.

24 THE COURT: You may do so.

25 MR. FRANK: No objection.

1 THE CLERK: It will be C for Identification.

2 (Exhibit C, cell phone chalk/S. Langdon, marked for
3 Identification)

4 Q. (By Mr. Barry) Did you do the same type of chart for
5 Ms. Brooks' phone calls and Mr. Hall's phone calls?

6 A. With all four, yes.

7 Q. In terms of Ms. Brooks, Mr. Hall -- first off, I'm
8 going to show you a document and ask you, does that appear
9 to be the chart you made for Ms. Brooks' phone number of
10 518-878-6170?

11 A. Yes, sir.

12 Q. And, again, I'm going to show you a separate document
13 of what appears to Mr. Halls being number 347-7258.

14 A. Yes, sir.

15 Q. And again, this is a true representation of their phone
16 calls?

17 A. Yes, sir.

18 MR. BARRY: I ask these be marked for Identification as
19 a chalk?

20 MR. FRANK: No objection.

21 MR. CACCAVIELLO: First, Ms. Brooks.

22 THE CLERK: D for Identification.

23 (Exhibit D, cell phone chalk/N. Brooks, marked for
24 Identification)

25 MR. BARRY: Then Mr. Hall will be E.

1 (Exhibit E, cell phone chalk/A. Hall, marked For
2 Identification)

3 THE COURT: Ladies and gentlemen, let me just explain
4 the difference for marking something for Identification and
5 marking something as an exhibit. If it is marked as an
6 exhibit, that means it is evidence you can consider. If
7 it's marked for Identification only, it means for purpose of
8 the record we have identified it in a way, but it is not yet
9 evidence. And it has been suggested that it will be used,
10 these documents will be used as a chalk, in other words,
11 something to illustrate testimony but not necessarily
12 admitted as evidence.

13 You may proceed.

14 MR. BARRY: Thank you, Your Honor.

15 Q. (By Mr. Barry) I am going to place first what was been
16 marked for Identification C in front of you.

17 I place an image on the screen.

18 Does the image on the screen appear to be similar or
19 the same as the document in front of you?

20 A. That's the same.

21 Q. Okay. I'm going refer you down to page two, and what's
22 referenced as Number 618 in the far left column, if you
23 could see that?

24 A. Yes, sir.

25 Q. Okay. In making this chart, can you just explain to

1 the jury what that line references?

2 A. What this line shows me is that -- right here, so you
3 have Scott Langdon's phone is contacting Nicole Brooks'
4 phone with about a 49 seconds -- contact.

5 Q. Is this on August 14, 2010?

6 A. This is on August 14, yes.

7 The time is roughly about 13:41 which he's 1:41 in the
8 afternoon.

9 Q. Okay. So that's just military time?

10 A. Yes, 24 hour o'clock.

11 Q. Going up a little bit in terms of timing, do you see
12 613 in the far left column?

13 A. Yes, sir.

14 Q. And what does that show?

15 A. Right here we have Adam Hall contacting, this is
16 Mr. Langdon's phone. And it's also an outgoing, so
17 Mr. Langdon is contacting Mr. Hall with about seven seconds.

18 Q. And the next couple of records on the chart, are all
19 those phone calls between Mr. Hall and Mr. Langdon, except
20 for Ms. Brooks' phone call?

21 A. Yes, you can see them right here. Phone calls, a
22 couple of phone calls from Ms. Brooks, that comes to
23 Mr. Hall.

24 Q. And lastly, one more thing, on 636, can you tell us
25 what that refers to?

1 A. At 14:32 -- 2:32 in the afternoon -- we have, again a
2 phone conversation about a minute and half with
3 Ms. Brooks/Scott Langdon.

4 Q. And that would be 2:32 in the afternoon?

5 A. Yes, sir.

6 Q. And are you aware about what time Ms. Brooks reported
7 being robbed by David Glasser?

8 A. Ms. Brooks reported time roughly about 3:15 to 3:30 in
9 the afternoon.

10 Q. So it's called shortly before that?

11 A. Shortly before that.

12 Q. And creating the chart and these two days, was there
13 numerous phone calls between Ms. Brooks and -- I mean
14 between Mr. Langdon and Mr. Hall and Ms. Brooks?

15 A. Yes, there were.

16 Q. Next I want to show you what's been marked for
17 Identification, I believe for D, which would be Ms. Brooks'
18 phone calls.

19 A. Yes, sir.

20 Q. I'm showing you and I'm putting an image on the screen
21 and I ask you the image on the screen appears to be similar
22 to the documents in front of you?

23 A. Yes, it is, sir.

24 Q. And starting on page three, going to there and to the
25 beginning of four, can you tell us, you know, generally what

1 this chart shows?

2 A. Well, we have -- this is Ms. Brooks' phone and we have
3 contact, as can you see in the date in question, 13:23, so
4 1:23 in the afternoon she is contacting Adam Hall, shortly
5 thereafter Alexandra Ely, and back to Mr. Hall, shortly
6 thereafter Mr. Langdon, and it repeats.

7 So she's speaking to all these people, one right after
8 the other.

9 Q. And, again, did there appear to be numerous phone calls
10 between these parties?

11 A. Yes, there were.

12 Q. And is this chart similar to the chart you had made for
13 Mr. Langdon and his phone call pattern?

14 A. Yes, sir.

15 Q. Lastly, I'm going to reference what has been identified
16 for Identification E, I believe, which refers to Mr. Hall's
17 phone calls.

18 I will put an image on the screen and ask you is the
19 image on the screen similar to the document that is in front
20 of you?

21 A. Yes, it is, sir.

22 Q. And I will go down to page five.

23 (Pause)

24 Q. (By Mr. Barry) And turning to page five, can you
25 briefly explain what this shows?

1 A. This is similar call pattern from Mr. Langdon and
2 Alexandra Ely's calls and this is --

3 THE COURT: Lieutenant, can I interrupt you for just a
4 moment?

5 THE WITNESS: Yes, sir.

6 THE COURT: If you could just push the microphone away,
7 that way it wouldn't be rubbing against the back of your
8 jacket.

9 THE WITNESS: Okay.

10 THE COURT: Thank you.

11 Q. (By Mr. Barry) Please.

12 A. So if we start getting around to the time frame here,
13 seeing at 12 o'clock we've got Mr. Hall call's. That's a
14 phone call to Miss Brooks, Alex Ely, Alex Ely, Scott
15 Langdon.

16 This continues to right up around the time shortly, you
17 know, before, and then it picks up before the crime -- I'm
18 sorry. The alleged crime was committed at 3:15, 3:30 and
19 then afterwards we start seeing another call, 18:16 and
20 about 6 o'clock.

21 And there was a contact, whether it was a text or
22 attempted call.

23 Q. And, again, in creating this chart, how is the call
24 pattern in comparison with the charts you provided for both
25 Mr. Langdon and Ms. Brooks?

1 A. Similar. All of these people were talking.

2 Q. Now, after the police subpoenaed the cell phone records
3 in and found the Price Chopper document and the other items
4 that you mentioned, police started making some arrests?

5 A. Yes, sir.

6 Q. And who did the police arrest?

7 A. Initially it was Ms. Brooks, and then Ms. Ely,
8 Mr. Langdon, finally Mr. Hall.

9 Q. And when the police arrested Ms. Brooks, Ms. Ely, and
10 Mr. Langdon, at some point did police get the chance to
11 speak to each of those individuals?

12 A. Yes, sir.

13 Q. And in speaking to each of those individuals, at any
14 point did police make any threats or promises in getting
15 them to speak back to the police?

16 A. No.

17 Q. After speaking to them, were charges brought against
18 Mr. Hall?

19 A. Yes.

20 Q. Did -- and in terms of the August of 2010 case, was
21 there a trial set in Berkshire Superior Court for that case?

22 A. Yes, there was.

23 Q. And when was that trial set for?

24 A. The trial was set for that next Fall. The --

25 MR. BARRY: Thank you.

1 (Off the record discussion amongst The Commonwealth.)

2 MR. BARRY: No more questions, Your Honor.

3 THE COURT: Mr. Frank, you may cross examine.

4 MR. FRANK: I understand this too, is a bifurcated
5 witness?

6 MR. BARRY: That's correct, yes.

7 MR. FRANK: I have no questions.

8 THE COURT: Lieutenant, you may step down.

9 You may call your next witness.

10 MR. BARRY: Commonwealth will call to the stand Justina
11 Coe.

12 (Justina Coe, sworn)

13 THE COURT: Ms. Coe, good afternoon.

14 THE WITNESS: Good afternoon.

15 THE COURT: If I could remind to you keep your voice up
16 so we can all hear you and answer only the question put to
17 you. Please.

18 THE WITNESS: Okay.

19 THE COURT: You may proceed.

20 MR. BARRY: Thank you, Your Honor.

21 (Justina Coe)

22 **DIRECT EXAMINATION BY MR. BARRY**

23 Q. Good afternoon, ma'am.

24 First of all, can you tell the jury your name?

25 A. Justina Coe.

1 Q. How old are you, Ms. Coe?

2 A. Twenty-seven.

3 Q. Do you know someone by the name of Richie Stansen?

4 A. Yes.

5 Q. How did you know Richie Stansen?

6 A. He's the father of my child.

7 Q. And you also know someone by the name of Adam Lee Hall?

8 A. Yes.

9 Q. And did he have a nickname that he went by?

10 A. Leo.

11 Q. I will show you what's been marked as Exhibit 38.

12 Do you recognize the person depicted in that
13 photograph?

14 A. Yes.

15 Q. And who's that?

16 A. Leo. Adam Lee Hall.

17 Q. And how long have you known Mr. Hall?

18 A. Since I was 19.

19 Q. So for a number of years?

20 A. Yes.

21 Q. And did you know a person by the name of David Glasser?

22 A. Yes.

23 Q. And how did you know David Glasser?

24 A. I only knew him from seeking drugs from my baby's
25 father, Richard Stansen.

1 Q. I am going to ask you to go back several years to the
2 year 2009, back in 2009. First of all, do you remember
3 where he lived?

4 A. Yes.

5 Q. Where did he live?

6 A. 122 Madison Avenue.

7 Q. Do you remember a time in 2009 when Adam Hall showed up
8 at 122 Madison Ave. and mentioned Mr. David Glasser's name?

9 A. Yes.

10 Q. Please explain to the jury what Mr. Hall is talking
11 about.

12 A. Me, Richard Stansen, and Gary Hall -- Leo's father,
13 were all standing on the front porch. It was in the summer,
14 and Leo drove up in his Hummer, and he got out and he
15 started bragging about how he beat up David Glasser with a
16 bat, and he took him to the hospital. He was a nice guy.
17 And Leo wasn't saying much afterwards.

18 Q. Okay. And how about forward a little bit of time to
19 December, Wintertime of 2009. Do you remember around this
20 period of time being with Mr. Hall and having him mention
21 David Glasser's name again?

22 A. Yes.

23 Q. And where did this conversation place?

24 A. In his Hummer.

25 Q. All right. Can you explain to the jury what this

1 conversation was with you and Mr. Hall about Mr. Glasser?

2 A. Leo wanted me to go up to Mr. Glasser's apartment and
3 give him a blow job and get cum on a pair of panties, frame
4 him for rape.

5 Q. What did you say to Mr. Hall when he asked you to do
6 this?

7 A. No.

8 Q. Lastly, I want to bring your attention to August of
9 2011, do you remember a tropical storm happening around that
10 period of time?

11 A. Yes.

12 Q. And about a week before that storm, did you have any
13 contact with Mr. Hall?

14 A. Yes.

15 Q. About how much contact did you have with Mr. Hall?

16 A. He was in my apartment almost every day of the week.

17 Q. Was that unusual?

18 A. Yes.

19 Q. And did he ever come over with anybody?

20 A. Yes.

21 Q. Who did he come over with?

22 A. He came over once David Chalue.

23 Q. And do you see Mr. Chalue in the courtroom today?

24 A. Yes.

25 Q. Can you point to him and describe something he's

1 wearing?

2 MR. FRANK: Stipulate identification, Your Honor.

3 THE COURT: Very well, the defendant has agreed this
4 witness can identify the defendant, and the record will so
5 reflect.

6 Q. (By Mr. Barry) Had you met Mr. Chalue before?

7 A. No, only that one time.

8 Q. And in terms of the number of years you meet with
9 Mr. Hall, had you ever seen Mr. Chalue with Mr. Hall before
10 that day?

11 A. No.

12 Q. In one of these visits, did Mr. Hall ever ask you to do
13 something the week before the storm?

14 A. Yes.

15 Q. And can you explain to the jury what he asked you to
16 do?

17 A. He wanted to pick me up and have me get a pack of
18 cigarettes from the store, for him.

19 He gave me \$10 to go in the Cumberland Farms and get a
20 pack of Newport 100s, get them in a bag and give them back
21 to him with his change.

22 Q. Did you end up doing that?

23 A. Yes.

24 Q. And in all the years you had seen Mr. Hall, had you
25 ever seen him smoke before?

1 A. No.

2 Q. Did you ask him why he specifically wanted Newport 100
3 cigarettes?

4 A. No.

5 Q. What happened after you bought him the cigarettes?

6 A. He just brought me home.

7 MR. BARRY: Thank you.

8 One moment, Your Honor.

9 Thank you. One moment, Your Honor.

10 (Pause)

11 Q. (By Mr. Barry) Well, ma'am, first of all, is there any
12 type of relationship between Mr. Stansen and Mr. Hall?

13 A. Not blood, they considered each other brothers because
14 they grew up together.

15 Q. And it lasted -- earlier, when you referenced when
16 Mr. Hall drove in the Hummer, in reference that someone was
17 a good guy for the breakfast sandwiches, who was he
18 referring to?

19 A. Himself.

20 MR. BARRY: Thank you. No more questions, Your Honor.

21 THE COURT: Mr. Frank, you may cross examine.

22 MR. FRANK: Thank you.

23 **CROSS EXAMINATION BY MR. FRANK**

24 Q. Good afternoon.

25 A. Good afternoon.

1 Q. I'm Attorney Don Frank. I represent David Chalue.

2 Ms. Coe, a few things, you met the defendant David
3 Chalue one time, correct?

4 A. Yes.

5 Q. At your house with Adam Hall, correct?

6 A. Yes.

7 Q. But a week before the storm, Adam Hall had come to your
8 house almost every day; is that fair to say?

9 A. Yes.

10 Q. And when he came to your house, he came to your house
11 sometimes by himself; is that right?

12 A. Yes.

13 Q. And sometimes he came with other people as well?

14 A. Yes.

15 Q. And some of those other people he came with -- you knew
16 that Adam has was a Hells Angels, correct?

17 A. Yes.

18 Q. And sometimes when he came by he came by with other
19 Hells Angels; is that also correct?

20 A. No, not to my house.

21 Q. Did you meet Adam Hall that week at other places?

22 A. No.

23 Q. Just at your house, during the week before the storm?

24 A. Yes.

25 Q. Okay. Now, the people who he brought over, were there

1 a lot of people he brought over or a few, do you recall?

2 A. There was only a couple.

3 Q. Do you remember who he brought over outside of David
4 Chalue?

5 A. One I remember as Ocean Sutton.

6 Q. Okay. And who else?

7 A. I don't remember, like, names or anything.

8 Q. So then when he would come over, would he be just
9 hanging around for the most part?

10 A. Yes.

11 Q. Chilling, spending time talking, that kind of thing?

12 A. Uh-huh.

13 Q. Now, by the way, David -- excuse me, Leo is about
14 6-foot-2, right?

15 A. Yes.

16 Q. He's taller than I am? He is a big guy, right?

17 A. Yes.

18 Q. And David Chalue is about 5-foot-10, correct?

19 A. I don't -- wouldn't know.

20 Q. You don't recall one way or the other his height?

21 A. No.

22 Q. When the two of them came together, do you recall David
23 Chalue being significantly shorter than Adam Hall?

24 A. Maybe a little bit because we were all sitting on my
25 couch together. And like, Leo's head was up here and his

1 was down here. Chalue's was down here.

2 Q. Are you a showing us a difference of about maybe
3 eight inches?

4 A. Well maybe not that much -- like I said, I don't know
5 for sure.

6 Q. All right. But you, even with sitting down, you could
7 tell that David Chalue was shorter by inches, correct?

8 A. Yeah.

9 Q. All right. Now Leo came to your house and had you buy
10 some Newport cigarettes, right?

11 A. Yes.

12 Q. He was alone when he did that?

13 A. Yes.

14 Q. You don't know why he did that?

15 A. No.

16 Q. Leo is not above asking you for favors, correct? He'd
17 ask you to do things?

18 A. Yes.

19 Q. And sometimes you didn't know why he was asking you to
20 do them; is that right?

21 A. Yeah.

22 Q. And you didn't know why he was asking to by Newport
23 cigarettes, did you?

24 A. No.

25 Q. You just did it?

1 A. Yes.

2 Q. Because to not do it would be to would mean you would
3 have to deal with Leo, correct?

4 A. I guess.

5 Q. All right.

6 A. But he never put me in any harm, so I wasn't like
7 afraid of him like that.

8 Q. You weren't afraid of Leo?

9 A. Yes. No.

10 Q. Okay. But to say no to Leo involved a lot of
11 complaining from Leo, correct?

12 A. Uh-huh.

13 Q. And a lot of needling?

14 A. Correct.

15 Q. And he kept going at it and going at it until you would
16 say yes; that is fair for the most part?

17 A. Yes.

18 Q. Now, and when you bought the cigarettes, did you ask
19 him what he was doing with those cigarettes?

20 A. No.

21 Q. You just did it?

22 A. Yeah.

23 Q. He doesn't smoke Newports?

24 A. No.

25 Q. He doesn't even smoke?

1 A. No.

2 Q. He gave you the money for that?

3 A. Yes.

4 MR. FRANK: Thank you very much.

5 THE COURT: Redirect examination.

6 **REDIRECT EXAMINATION BY BARRY**

7 Q. When you asked -- when Mr. Hall asked you to frame
8 Mr. Glasser of something of a sexual charge, did you say
9 yes?

10 A. No.

11 MR. FRANK: Objection.

12 THE COURT: Basis of your objection?

13 THE WITNESS: Exceeds.

14 THE COURT: Overruled.

15 Q. (By Mr. Barry) I'm sorry. Can you answer?

16 A. No.

17 MR. BARRY: No more questions.

18 MR. FRANK: No more questions.

19 THE COURT: You are excused, Ms. Coe.

20 THE WITNESS: Thank you.

21 (The witness stepped down.)

22 THE COURT: You may call your next witness.

23 MR. BARRY: The commonwealth calls Timothy Rondeau.

24 (Pause)

25 (Timothy Rondeau, sworn)

1 THE COURT: Good afternoon, sir.

2 THE WITNESS: Hi.

3 THE COURT: If I could remind you to keep your voice up
4 so we can all hear you and answer only the question put to
5 you, please.

6 (Timothy Rondeau)

7 DIRECT EXAMINATION BY MR. BARRY

8 Q. Sir, can you tell the jury your name?

9 A. Timothy Rondeau.

10 Q. How old are you, Mr. Rondeau?

11 A. Forty-four.

12 Q. Mr. Rondeau in terms of this case, do you know someone
13 by name of Adam Hall or Leo Hall?

14 A. Yes, I do.

15 Q. How did you know, him as Leo or Adam?

16 A. Leo.

17 Q. I'm showing what you has been marked as Exhibit 38. Do
18 you recognize that person?

19 A. Yes, I do?

20 Q. And who is that?

21 A. Leo Adam Hall.

22 Q. For how long did you know Mr. Hall?

23 A. Six or seven years.

24 Q. Did you ever work for him?

25 A. Yeah, I did.

1 Q. Where did you work for him?

2 A. Up in Peru.

3 Q. Who did you work with up in Peru?

4 A. David Glasser and Scott Langdon.

5 Q. Did you know Scott Langdon?

6 A. Yeah, he was married to my sister for like 20 years.

7 Q. And did you know Mr. Glasser?

8 A. Just working with him a little bit.

9 Q. I want to draw your attention to August of 2009.

10 During this period of time, did Hall ever make mention of
11 the name David Glasser to you?

12 A. Yes, he did.

13 Q. And can you explain to the jury what Mr. Hall said to
14 you about David Glasser in August of 2009?

15 A. He wanted me to just get this girl, Alicia Tatro, to
16 set him up somehow to discredit him.

17 Q. How did you know this Alicia Tatro?

18 A. She has got kids with my son.

19 Q. And did he specifically tell you how he wanted Ms.
20 Tatro to set up Mr. Glasser?

21 A. Like, bring them over the state line and try to get him
22 on some rape charges or something like that.

23 Q. And did you pass this message along?

24 A. Yeah, I told her that if -- that's what he wanted her
25 to do.

1 Q. And, to your knowledge, did Ms. Tatro go along with the
2 plan?

3 A. Not the that I know of.

4 MR. CAPELESS: Thank you. No further questions, Your
5 Honor.

6 THE COURT: Mr. Frank, you may cross examine.

7 **CROSS EXAMINATION BY MR. FRANK**

8 Q. Good afternoon.

9 Do you know Mr. Hall to be a Hells Angels, correct?

10 A. Yes.

11 Q. And you also knew a gentleman by the name of Milo; that
12 is also correct?

13 A. Yeah, I met him.

14 Q. All right. And Milo is a Hells Angels?

15 A. Yes.

16 Q. And at one point, within a year or so of -- within a
17 year or so of the incident, Milo and Hall came by to talk to
18 you about being a witness; do you recall that?

19 A. No, they never come by to be a witness.

20 Q. And some sort of -- do you recall them talking to you
21 about a furniture deal, some sort of furniture scam?

22 A. Yeah.

23 Q. And they had some sort of operation going in a
24 furniture scam, something along those lines?

25 MR. BARRY: Objection, Your Honor.

1 THE COURT: I will see you at sidebar, please.
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (Beginning of Sidebar Discussion)

2 THE COURT: Nature of your objection?

3 MR. BARRY: It seems to be going out of scope. I would
4 say relevance to these questions.

5 THE COURT: It seems to be a fair question.

6 What is the relevance of this line of questioning,
7 Mr. Frank?

8 MR. FRANK: Well, in terms of scope, Your Honor, I am
9 not sure that is an objection; but in terms of relevance,
10 Your Honor, in 2009, 2010 right around this relative time,
11 Mr. Hall and Mr. Milo -- and his last name is just escaping
12 me for a moment.

13 MR. BARRY: Campbell.

14 MR. FRANK: Campbell came to his residence and asked
15 him if he were in a witness in a -- he were a witness in
16 some sort of scam involving a furniture deal. I assume
17 Mr. Hall was involved, and I don't have full discovery of
18 that.

19 THE COURT: How is that relevant to this case?

20 MR. FRANK: It's relevant to this case because there
21 are alternative suspects who are available to Mr. Hall
22 outside of my client, one of those is Milo Campbell.

23 THE COURT: All right. So your purpose in asking these
24 questions is to point out that Mr. Hall was engaged with
25 other people in other scams?

1 MR. FRANK: Yes.

2 THE COURT: Objection is overruled.

3 (End of Sidebar Discussion)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE COURT: If you could re-ask your question, please,
2 Mr. Frank.

3 MR. FRANK: Certainly.

4 Q. (By Mr. Frank) Drawing your attention back to 2009,
5 2010, so you had a conversation with Adam Hall and Milo
6 Campbell; is that correct?

7 A. They stopped by my house.

8 Q. All right. And when they stopped by your house, and
9 you understood Milo Campbell to be a Hells Angels; is that
10 correct?

11 A. Yes.

12 Q. And they asked you whether or not they -- you had been
13 some sort of witness to a furniture entrepreneurial thing;
14 do you recall that, sir?

15 A. No, I don't.

16 MR. FRANK: If I could have just one moment?

17 (Pause)

18 MR. FRANK: Okay. Thank you. I have nothing further.

19 THE COURT: Mr. Barry, redirect examination?

20 MR. BARRY: Nothing further.

21 THE COURT: Mr. Rondeau, you are excused thank you.

22 (The witness stepped down.)

23 THE COURT: You may call your next witness.

24 MR. CACCAVIELLO: Commonwealth will call Bryan Johnson.

25 (Bryan Johnson, sworn)

1 THE COURT: Mr. Johnson, good afternoon.

2 If I could remind you to keep your voice up and answer
3 only the question put to you, please.

4 THE WITNESS: Yes.

5 THE COURT: You may proceed.

6 (Bryan Johnson)

7 DIRECT EXAMINATION BY MR. CACCAVIELLO

8 Q. Good afternoon, sir.

9 Please start by telling the jury your name, please.

10 A. Bryan Johnson.

11 Q. In what state do you live?

12 A. I live in Connecticut.

13 Q. What type of work do you do?

14 A. I'm a welder fabricator.

15 Q. And, sir, you are here today under summons to testify;
16 is that correct?

17 A. Yes.

18 Q. And your understanding, you have been granted immunity
19 to testify; is that correct?

20 A. Yes.

21 Q. And you understand that that order compels you to
22 testify truthfully, correct?

23 A. Yes, it does.

24 Q. And you're still under oath in order to testify,
25 correct?

1 A. Yes.

2 Q. Now, sir, do you know a person named Adam Leo Hall?

3 A. Yes.

4 Q. How long you have known Mr. Hall?

5 A. About 10 years, a little over 10 years.

6 Q. How would you describe your relationship with him?

7 A. We were friends.

8 Q. And have you ever done any sort of work for Mr. Hall?

9 A. Yeah, I repaired motorcycles, motorcycle parts for him.

10 Q. Did you do that on a fairly regular basis?

11 A. Every now and again, yeah.

12 Q. And, sir, directing your attention back to the Summer
13 of 2011, and were you asked by Mr. Hall to repair a certain
14 item?

15 A. Yes.

16 Q. And how did that -- first of all, what was the item?

17 A. It was a gun.

18 Q. And how did the conversation take place? First of all,
19 was it in person or on the phone?

20 A. He called me and asked me if I could fix something for
21 him.

22 Q. Okay. And what did you say? What did you say to him?

23 A. I said I would try.

24 Q. And he told you what the item was?

25 A. No, he brought it to me.

1 Q. Okay. And then did he bring it to you in your home in
2 Connecticut?

3 A. Yes.

4 Q. And what was the item again?

5 A. It was a gun a PLR-16.

6 Q. And do you have some familiarity with guns?

7 A. Little bit.

8 Q. I'm going to show you an item -- I show you that
9 photograph. And do you recognize what's in that paragraph?

10 A. Yes.

11 Q. And does that appear similar to the item that Mr. Hall
12 brought to you?

13 A. Yes.

14 Q. Okay.

15 MR. CACCAVIELLO: Commonwealth would ask this be marked
16 as 80.

17 MR. FRANK: No objection.

18 THE COURT: Admitted.

19 (Exhibit No. 80, photograph, marked)

20 Q. (By Mr. Caccaviello) Sir, directing your attention to
21 the screen, is that what you just saw marked as Exhibit
22 Number 80; is that the same item?

23 A. Yes.

24 Q. So, when -- how long after the initial conversation
25 with Mr. Hall about repairing that item, did he actually get

1 it to you?

2 A. About a week -- about a week.

3 Q. About a week or so?

4 A. Uh-huh.

5 Q. And did you take some steps to try to repair it?

6 A. Yeah, I tried to. I couldn't figure it out.

7 Q. Did you have to order any items?

8 A. Yeah.

9 Q. And, in particular, directing your attention to
10 August 9 of 2011, did you order a part for that gun?

11 A. Yes, I did.

12 Q. And how did you go about doing that?

13 A. I ordered it online.

14 Q. What was the part?

15 A. It was a trigger.

16 Q. And were you able to get that item?

17 A. Yes.

18 Q. How long after you ordered it, did it come?

19 A. Three days.

20 Q. How much was it?

21 A. \$2.97 cents.

22 Q. And this was a trigger you said?

23 A. Yes.

24 Q. And when the part came three days later, how did you go
25 about trying to fix it?

1 A. Looked at the weapon, tried to disassemble it and
2 figure it out.

3 Q. Okay. And are you aware of other actually assembly
4 directions on the internet?

5 A. Yeah.

6 Q. Okay. Did you view any of those in an effort to fix
7 it?

8 A. No. No.

9 Q. So after you couldn't fixed it, what did you do?

10 A. He called and I called him and told him I couldn't fix
11 it.

12 Q. I'm sorry. Just to make sure I got the sequence down,
13 who called who?

14 A. I called him and told him I couldn't fix it.

15 Q. Okay. And what did he say to you?

16 A. He said bring it back.

17 Q. Okay. And so what did you do?

18 A. I bought it back to him.

19 Q. Where did you -- well, let me ask you, when did you
20 bring it back to him?

21 A. At the week and a half later.

22 Q. And where did you bring it to him?

23 A. I brought it outside to him, outside the clubhouse.

24 Q. When you say "the clubhouse" what do you mean by that?

25 A. Lee, Mass.

1 Q. And when you went to the clubhouse, did you see
2 Mr. Hall?

3 A. Yes.

4 Q. And was he there with anyone?

5 A. He was there with two girls.

6 Q. Did you know who they were?

7 A. No.

8 Q. When you returned the gun to Mr. Hall, did you also
9 give him that trigger part?

10 A. Yes.

11 MR. CACCAVIELLO: One moment, Judge?

12 THE COURT: You may.

13 (Off the record discussion amongst The Commonwealth.)

14 Q. (By Mr. Caccaviello) This weapon that's shown on the
15 screen, Mr. Johnson, how did you refer to it? How did you
16 refer to it? What did you call it?

17 A. It was a PL 16 or PLR-16. It's Kel-Tec.

18 Q. And do you know if its referred to as a TEC-9?

19 A. No.

20 Q. You just don't know?

21 A. No.

22 MR. CACCAVIELLO: Okay. No further questions.

23 THE COURT: Mr. Frank, you may cross examine.

24 MR. FRANK: Thank you.

25 Leave that on the screen for just one moment, please.

CROSS EXAMINATION BY MR. FRANK

1
2 Q. Good afternoon.

3 Sir, the item on the screen there is a PLR or PL-16,
4 correct?

5 A. Yes.

6 Q. But that's not the gun, that's not the picture of the
7 gun that you and Adam were dealing with, is it?

8 A. No.

9 Q. Because the one you had didn't have a trigger?

10 A. Correct.

11 Q. So you know that can't be the same gun?

12 A. Yes.

13 Q. And the one that he gave you, was it all, like, rusty
14 and messy or was it clean?

15 A. It was a little dirty, a little rusty.

16 Q. Is there a cartridge in that gun that we're looking at?

17 A. Yes.

18 Q. Okay. And did he give -- did the gun he gave you have
19 a cartridge?

20 A. No.

21 Q. So Adam called -- initially, in regard to the PLR, Adam
22 initially -- Adam Hall initially called you, correct?

23 A. Yes.

24 Q. Spoke to you about the gun?

25 A. Yes.

1 Q. And you didn't hear -- you don't know David Chalue, do
2 you?

3 A. Never met him.

4 Q. And he didn't reference David Chalue when he first
5 called you, correct?

6 A. No.

7 Q. And when he called to drop it off at your house, he was
8 not with David Chalue?

9 A. No.

10 Q. And, by the way, David Chalue is seated over to my
11 right.

12 And when you dropped it off to the clubhouse in Lee,
13 David Chalue, as far as you know, certainly wasn't outside;
14 is that right?

15 A. No, there was no one there.

16 Q. Okay. So it's just Adam Hall and two women, correct?

17 A. Correct.

18 MR. FRANK: Thank you very much.

19 THE COURT: Redirect examination?

20 MR. CACCAVIELLO: Nothing else, Judge.

21 THE COURT: Mr. Johnson, you're excused. Thank you.

22 THE WITNESS: Thank you.

23 (The witness stepped down.)

24 THE COURT: You may call your next witness.

25 MR. CACCAVIELLO: Commonwealth will call William

1 Gregory.

2 (William Gregory, sworn)

3 THE COURT: Mr. Gregory, good afternoon.

4 THE WITNESS: Hi, how are you?

5 THE COURT: Please keep your voice up so we can all
6 hear you and answer only the question put to you, please.

7 THE WITNESS: Yes.

8 THE COURT: You may proceed.

9 MR. CACCAVIELLO: Thank you, Your Honor.

10 (William Gregory)

11 **DIRECT EXAMINATION BY MR. CACCAVIELLO**

12 Q. Sir, will you please tell the jury your name, please?

13 A. William Gregory.

14 Q. What town do you live?

15 A. Pittsfield, Massachusetts.

16 Q. What do you do for work, sir?

17 A. Presently I work at Home Depot part-time.

18 Q. I'm sorry?

19 A. Part-time.

20 Q. How long have you worked there?

21 A. Just about a little over three years.

22 Q. What do you do at Home Depot?

23 A. Presently I work for the merchandise execution team
24 before that I was a sales associate.

25 Q. As a sales associate, what were your responsibilities?

1 A. Customer service, stocking shelves basically.

2 Q. You would be a person on the floor that would offer
3 help to a customer?

4 A. Yes.

5 Q. Now, sir, I'm going to direct your attention back to
6 late August of 2011. Do you recall was there a big weather
7 event in the forecast at the end of August?

8 A. Yeah, it was Hurricane Irene maybe. I am not sure the
9 name of it.

10 Q. And for the Home Depot, did that have some significance
11 in terms of preparation?

12 A. Well, it was any big storm that, you know, people are
13 looking for generators. It was pretty chaotic that day, you
14 know, we were out of generators. We got a shipment in and
15 people were basically fighting over to get generators. It
16 was mass chaos in the store.

17 Q. And, in fact, had -- was there an extra shipment of
18 generators that came in?

19 A. It came in late afternoon, I guess.

20 Q. Now, directing your attention to that week, sir, do you
21 recall encountering some specific customers about whom you
22 ultimately provided information to the police?

23 A. Yeah, the one day, Wednesday or Thursday, two gentleman
24 come in, and one that really stuck out was his facial
25 features, his hair, piercings, tattoos, just horns on his

1 head.

2 Q. And, sir -- okay. And so did you -- what was the most
3 distinctive feature to you?

4 A. The horns on his head.

5 Q. I'm going to show you a photograph, sir. Do you
6 recognize who's depicted in the photograph?

7 A. Yes.

8 Q. And who is that, sir?

9 A. I'm not sure how to say -- Caius.

10 Q. Well --

11 A. He was one of the gentleman that came.

12 Q. Was this individual that you are referring to that most
13 caught your attention?

14 A. Yes.

15 MR. CACCAVIELLO: Commonwealth will ask that this be
16 marked as Commonwealth Number Exhibit 81.

17 THE COURT: Any objection?

18 MR. FRANK: No objection.

19 THE COURT: Admitted.

20 (Exhibit No. 81, photograph, marked)

21 Q. (By Mr. Caccaviello) And, sir, directing your attention
22 to the screen, is that the same image on the screen that has
23 just been marked as Number 81, a photo in front of you?

24 A. Yes, it is.

25 Q. That's the individual you are referring to that came

1 into the store?

2 A. Yup; yes, it is.

3 Q. Now, sir, when these -- the other person that was with
4 the person that's on the screen, and is there anything --
5 can you recall about him?

6 A. He was more dressed, neater, more cut short hair.

7 Q. And anything about the color of his clothing?

8 A. I believe he had a light-colored shirt on.

9 Q. Now, what's -- what part of the store were you working?

10 A. I work in -- at that time, I was working in hardware.

11 Q. And did these two individuals come into your section of
12 the store?

13 A. Yes, they did.

14 Q. And as they walked into that section, did either one of
15 them ask you any questions?

16 A. They just asked me where the saws were.

17 Q. Did you help them out?

18 A. I pointed them in a direction. I said in the tool crib
19 in Aisle 8, a little ways, half-way down on your left-hand
20 side.

21 Q. Was there some more conversation or more requests of
22 you?

23 A. They asked me if that -- excuse me, was that the only
24 saws we had, do we have any other saws. I said there's
25 power saws, skill saws over in Aisle 10. I said we have

1 chainsaws, but they are over in Garden, in Aisle 2.

2 Q. So separate area from where you were?

3 A. Yes.

4 Q. So did you then -- did they continue down the aisle?

5 A. I met them at the beginning of the tool crib and they
6 went down Aisle 8, yes.

7 Q. Sir, are you familiar with whether or not the Home
8 Depot has surveillance cameras in place?

9 A. They are all over the store.

10 Q. All over the store. And does those surveillance
11 cameras capture the activity that is in front of it on an
12 actual recorded footage?

13 A. Yes.

14 Q. And, sir, does that -- pursuant to this investigation,
15 have you had occasion to view some footage of the Home
16 Depot, capturing what you just described to the jury?

17 A. Yes, I have.

18 MR. CACCAVIELLO: Your Honor, at this point the
19 Commonwealth would ask that the Home Depot video be marked
20 as Exhibit Number 82?

21 THE COURT: Any objection, Mr. Frank?

22 MR. FRANK: No objection.

23 THE COURT: Admitted.

24 (Exhibit No. 82, Home Depot surveillance video, marked)

25 Q. (By Mr. Caccaviello) Sir, I'm going to ask to you look

1 at the screen and I'm going to ask you some questions, okay?

2 A. Yup.

3 (Whereupon, the video was viewed.)

4 Q. (By Mr. Caccaviello) First of all, what are we looking
5 at here? What section of Home Depot?

6 A. These are the three aisles inside of the tool crib in
7 the hardware department.

8 Q. And if I can, if we can stop the screen right there.

9 Sir, I'm going to show you, on the screen, these two
10 individuals here, sir. Are these the two individuals you
11 are referring to in your testimony?

12 A. Yes, I am.

13 MR. CACCAVIELLO: Would you start that portion?

14 (Whereupon, the video was viewed.)

15 Q. (By Mr. Caccaviello) Where is it that they are walking
16 towards and ultimately stop?

17 A. Right now they are heading towards the end of Aisle 8,
18 I believe down by the screwdrivers and wrenches are.

19 Q. Okay.

20 (Whereupon, the video was viewed.)

21 Q. (By Mr. Caccaviello) I'm going to ask you to keep
22 watching the screen.

23 (Whereupon, the video was viewed.)

24 Q. (By Mr. Caccaviello) And, sir, this person here is who?

25 A. That's me.

1 Q. Okay. And are you looking to approach them, ask if
2 they need some assistance?

3 A. Yeah. We were taught to give people customer service,
4 to see if they need any help or at the time I believe
5 that's -- they called me and asked me where the saws were.

6 Q. And do you make your way over?

7 (Whereupon, the video was viewed.)

8 Q. (By Mr. Caccaviello) And, sir, you are walking over to,
9 pursuant to that request?

10 A. Yes.

11 (Whereupon, the video was viewed.)

12 Q. (By Mr. Caccaviello) Sir, as they are leaving that
13 area, which area is -- have they stopped here?

14 A. Right now they're where hammers and hatchets are and
15 the saws are the next bay up.

16 Q. And I'll actually give you the pointer to start
17 behavior where that bay is. And if you can -- of course
18 with Court's permission, step off the bench.

19 THE COURT: You may step down, if it's easier.

20 THE WITNESS: This bay right here. It's hard to see.
21 The hammers and hatchets, the saws would be in this bay
22 here.

23 Q. (By Mr. Caccaviello) Thank you.

24 MR. CACCAVIELLO: Press play.

25 (Whereupon, the video was viewed.)

1 MR. CACCAVIELLO: Pause right there.

2 Q. (By Mr. Caccaviello) Mr. Gregory, did you just see some
3 activity between two individuals?

4 A. It seemed like where the hatchets would be.

5 Q. And did you see one of the individuals, particularly
6 the one you described --

7 A. Take the hatchets.

8 Q. What did he do with it?

9 A. Seemed like he was just (Indicating) moving it with
10 his --

11 MR. FRANK: Objection. Objection.

12 THE COURT: Basis of your objection?

13 MR. FRANK: There is no reason he needs to describe
14 what we have all just seen.

15 THE COURT: Well, the objection is overruled.

16 You may describe what you saw on the surveillance
17 video.

18 THE WITNESS: It seemed like he was, you know, just --
19 (Indicating)

20 You know, seeing how light, you know, how it would be
21 to chop, I guess.

22 Q. (By Mr. Caccaviello) Did -- may the record reflect the
23 witness is essentially moving his arm up and down in an up
24 and down fashion?

25 THE COURT: All right. The record will so reflect.

1 Q. (By Mr. Caccaviello) Continue on.

2 (Whereupon, the video was viewed.)

3 (Pause)

4 Q. (By Mr. Caccaviello) Sir, just for clarification in
5 terms of what you saw on the screen. The person holding
6 that hatchet, which of the two individuals did you see, just
7 a moment ago, sir?

8 A. The one with the facial features.

9 Q. Okay. Would that be the person exhibited in Number 81,
10 Mr. Veiovis?

11 A. Yes.

12 Q. And showing you two photographs there, sir, did you
13 recognize what they depict?

14 A. Yes, what I just described on this screen.

15 Q. As to the first photograph that you see, where is that
16 depicted on the screen?

17 A. That was the first, what I pointed to with the
18 hatchets.

19 Q. So would that be, if you look at the screen, sir, would
20 that be in this area?

21 A. Yes, it is.

22 Q. Okay. And that's what you have in your hand?

23 A. Yes, I believe so.

24 Q. Okay.

25 MR. CAPELESS: Commonwealth would ask that be marked as

1 83.

2 THE COURT: Any objection?

3 MR. FRANK: No objection.

4 THE COURT: Admitted.

5 (Exhibit No. 83, photograph, marked)

6 Q. (By Mr. Caccaviello) And, sir, as to the second
7 paragraph, what are we looking at there?

8 A. I have got to put my glasses on for a minute.

9 (Pause)

10 THE WITNESS: Same picture of the same, where the
11 hatchets and hammers are and the crowbars and chisels and
12 screwdrivers.

13 Q. (By Mr. Caccaviello) And that's just a different view?

14 A. Yes.

15 MR. CACCAVIELLO: And the Commonwealth asks that it be
16 marked as 84.

17 THE COURT: Any objection?

18 MR. FRANK: No objection.

19 THE COURT: Admitted.

20 (Exhibit No. 84, photograph, marked)

21 Q. (By Mr. Caccaviello) Now, sir, did you, a few weeks
22 after this particular day at Home Depot, did you have
23 occasion to see a photograph in local newspaper that caught
24 your attention?

25 A. Yes, it was a picture -- it was after, there were

1 people arrested for a murder.

2 Q. And was there any photo in that paper that caught your
3 attention and caused this to come to mind?

4 A. Same one as this one.

5 Q. Same one as the one that is in front of you right now?

6 A. Yes.

7 Q. That's Mr. Veiovis?

8 A. Yes.

9 MR. CACCAVIELLO: No further questions.

10 THE COURT: Mr. Frank, you may cross examine.

11 MR. FRANK: Thank you.

12 If we could put that back up on the screen, please.

13 **CROSS EXAMINATION BY MR. FRANK**

14 Q. Good afternoon. I'm attorney Don Frank I represent
15 Mr. Chalue.

16 Sir, what called your attention, initially, was the
17 newspaper article displaying the three people who were
18 arrested in this case; is that correct?

19 A. What caught -- what do you mean? Initially?

20 Q. Well, at some point you saw a newspaper article that I
21 think we just referred to it?

22 A. Well, I recognized the photograph from the person in
23 the store.

24 Q. Okay. That was Mr. Veiovis, right?

25 A. Yes. Yes.

1 Q. And you didn't know his name or his nickname at that
2 point that you saw him?

3 A. No.

4 Q. And there were two other people along on either side or
5 at least in the same picture along with Mr. Veiovis, in that
6 same newspaper article; is that right?

7 A. Yes.

8 Q. And one of them is Mr. Chalue, correct?

9 A. Correct.

10 Q. And that's not the person you saw with Mr. Veiovis?

11 A. No.

12 Q. And I'd ask you to watch.

13 MR. FRANK: If we could finish the rest of this, in
14 slow motion, please.

15 (Whereupon, the video was viewed.)

16 Q. (By Mr. Frank) You see where they are walking through,
17 sir?

18 MR. FRANK: Stop it now, please.

19 Q. (By Mr. Frank) Did you see where they walked down to?

20 A. The first aisle you mean?

21 Q. Yeah.

22 A. I didn't come out of the tool crib.

23 Q. Okay. But you know that then they came out of the tool
24 crib there's a checkout area, correct?

25 A. Yes.

1 Q. Right at the end of the aisle?

2 A. Just about to the end, just to the right, yes.

3 Q. And you didn't see them go to the left or to the right;
4 is that right?

5 A. I didn't see them going either way, no.

6 Q. And you didn't see them go to the garden area; is that
7 right?

8 A. No.

9 Q. The garden area is way out to side of the store; is
10 that right?

11 A. It's way off to the left if you're entering the store.

12 Q. So as you're facing the store, it's way off to the
13 left?

14 A. Yeah, it would be to the right from there.

15 Q. And when they asked you where the saws were, you told
16 them that was in the garden area; is that right?

17 A. The chainsaws were in the garden area.

18 Q. And you didn't see them go off into the garden area,
19 correct?

20 A. No. I work in hardware.

21 Q. And when you viewed the video, they didn't go to the
22 garden area, did you?

23 A. I wouldn't be able to tell where they went from this
24 video.

25 Q. Did you review a second video at the request of the

1 police from Home Depot?

2 A. I believe so.

3 Q. All right. And in the second video that the police
4 showed you, you recognize these two people, that is
5 Mr. Veiovis and another person not Mr. Chalue, correct?

6 A. Yes.

7 Q. And you saw them go from the area that they are, that
8 we just saw them exit to, right to the self-checkout area;
9 is that correct?

10 A. I believe so, yes.

11 Q. You didn't see them take a left over to the garden
12 area, did you?

13 A. No, they would have had to take a right.

14 Q. You -- okay. You didn't see them a take a right to the
15 garden area?

16 A. No. No.

17 MR. FRANK: Thank you very much -- oh, one moment.

18 (Pause)

19 MR. FRANK: Thank you very much.

20 THE COURT: Redirect examination?

21 MR. CACCAVIELLO: Nothing else, Your Honor.

22 THE COURT: Mr. Gregory, you are excused.

23 Thank you.

24 (The witness stepped down.)

25 THE COURT: You may call your next witness.

1 MR. CACCAVIELLO: Commonwealth will call Michael
2 Carriveau.

3 (Michael Carriveau, sworn)

4 THE COURT: Good afternoon, sir.

5 THE WITNESS: Good afternoon.

6 THE COURT: If I could remind you to keep your voice up
7 so we can all hear you and answer only the question put to
8 you please.

9 THE WITNESS: Okay.

10 THE COURT: You may proceed.

11 MR. CACCAVIELLO: Thank you, Your Honor.

12 (Michael Carriveau)

13 **DIRECT EXAMINATION BY MR. CACCAVIELLO**

14 Q. Sir, would you start by telling the jury your name.

15 A. Okay. Michael Carriveau.

16 Q. What do you do for a living?

17 A. I work for Home Depot Asset Protection Division.

18 Q. How long have you worked for Home Depot?

19 A. This November will be eight years.

20 Q. Prior to working for Home Depot, what did you do for a
21 living?

22 A. I retired from the United States military, 20 years
23 active duty.

24 Q. And with your position with the Home Depot -- I'm sorry
25 your title was?

1 A. Asset protection.

2 Q. What's a person who is in that division do?

3 A. We monitor all types of threats, both internal and
4 external. We investigate credit card fraud. We investigate
5 counterfeits, all types of -- any type of theft or any type
6 of activity that would be considered criminal in a case like
7 that.

8 Q. And what stores do you cover?

9 A. We cover -- right now, I cover three stores. I cover
10 Greenfield, Leominster, and Chicopee.

11 Q. And you, on occasion, also cover other stores?

12 A. That's correct.

13 Q. And would those include the Pittsfield, Massachusetts
14 Home Depot?

15 A. Yes. I covered Pittsfield at the timing of this.

16 Q. And in terms of a security system, what is it that Home
17 Depot employs?

18 A. Closed-circuit television, sensormatic, all forms of
19 it. I'm sure people have gone outside with something and
20 beeped, sounded the alarm.

21 Q. Now, in terms of the surveillance system in the
22 Pittsfield store, did it have various cameras posted?

23 A. Yes.

24 Q. And do you know, besides surveilling and monitoring, do
25 they also record?

1 A. Yes.

2 Q. And do they -- are they placed within different areas
3 within the Pittsfield store?

4 A. Yes.

5 Q. And do those include various aisles?

6 A. Yes.

7 Q. Including the register area?

8 A. Yes, all registers, yes.

9 Q. As well as the entrance area of the Home Depot?

10 A. Yes.

11 Q. And as well as the parking lot?

12 A. That's correct.

13 Q. And that is footage caught on that surveillance system;
14 is it time and date stamped?

15 A. It is.

16 Q. Does that need to be accurate for Home Depot services?

17 A. Yes.

18 Q. And in your experience, is it?

19 A. Yes, in most cases.

20 Q. Now, I want to direct your attention to September 13 of
21 2011. Have you been contacted by the Pittsfield Police
22 Department to assist in an investigation?

23 A. Yes, I was.

24 Q. Had you been provided with that department, with some
25 information?

1 A. Yes.

2 Q. What kind of information were you provided with?

3 A. They were looking for individuals arriving at the Home
4 Depot, basically gave me some time frames, some dates.

5 Q. Were you provided any type of descriptors?

6 A. Yes.

7 Q. And what kind of descriptors were you provided?

8 A. The main descriptor was a white male with a mohawk.

9 Q. Now, with that information, are you able to undertake
10 certain tasks?

11 A. Yes.

12 Q. What was that task?

13 A. Basically monitor our checkout cameras, check all
14 entrances and exits. They are one in the same. Looking for
15 someone who would match that description.

16 Q. Did you then review tape for the period of time from
17 August 22 to August 24?

18 A. Yes.

19 Q. Did any portions of those tapes capture your attention?

20 A. Yes.

21 Q. And in particular, why did they capture your attention?

22 A. A male matching the description that was requested came
23 into view.

24 Q. Now, as a result of that, did you -- what did you do
25 with that footage?

1 A. Saved it to the system.

2 Q. And did you automatically create a DVD which was turned
3 over to the law enforcement?

4 A. That is correct.

5 Q. Now, sir, I want to direct your attention to the
6 screen --

7 MR. CACCAVIELLO: And ask if you could just play --

8 (Whereupon, the video was viewed.)

9 Q. (By Mr. Caccaviello) And, sir, do you recognize what
10 area we are starting to look at here?

11 A. Yes, I do.

12 Q. And what that is?

13 A. That's self-checkout and that would be register six.

14 Q. And keeping your eye on the film, are the two
15 individuals -- the two individuals in that scene that
16 captured your attention?

17 A. That's correct.

18 Q. Those were the two you were looking for?

19 A. That's correct.

20 Q. What do they appear to be doing in that particular
21 footage?

22 A. Making a purchase.

23 (Whereupon, the video was viewed.)

24 Q. (By Mr. Caccaviello) Now, sir, using this footage, do
25 you have the ability to actually track that transaction?

1 A. Yes.

2 Q. Do you have the ability to also track those individuals
3 throughout the store?

4 A. Yes.

5 Q. How do you do that?

6 A. Basically from time, the time stamp and with the
7 information there you can backtrack and find the evidence,
8 whatever camera footage you're looking for.

9 Q. Okay. And so when you say backtrack, what -- just
10 again, just be a little more specific as to what you mean by
11 that.

12 A. From the time frame you're looking for when they may
13 have entered or also when they exit, based on the time of
14 the transaction.

15 MR. CACCAVIELLO: One moment, Judge. I am just looking
16 for one item here.

17 (Pause)

18 Q. (By Mr. Caccaviello) Now, sir, I'm going to show you an
19 item and ask you --

20 MR. CACCAVIELLO: First co-counsel.

21 (Pause)

22 Q. (By Mr. Caccaviello) Do you recognize what this item
23 is?

24 A. Yes. Basically the sleeve for a particular item at the
25 Home Depot.

1 Q. And what kind of item is it?

2 A. It's -- this is, as it says, an eight-piece folding
3 star key set.

4 Q. And that is an item that Home Depot carried at the
5 time?

6 A. Yes.

7 Q. You can put that back on the envelope.

8 I show you this item here, and do you're recognize what
9 that is?

10 A. Yes, that item would go with that.

11 Q. Well, this item would correspond to that tag?

12 A. That's correct.

13 Q. And, sir, from the -- did you undertake a task in
14 determining what the purchase was that was made that we're
15 looking at in the footage there?

16 A. Yes.

17 Q. What did you determine?

18 A. Basically that these two individuals purchased this
19 item at that register.

20 Q. And are there some documents that you generate in order
21 to support that position?

22 A. Yes. Every transaction at any register is logged in
23 what we call a POS journal, POS being Point of Sale.

24 And so each register, in this particular case 56, 57,
25 58, 59, so based on the information you can pull up every

1 transaction that happened at that particular register at
2 that particular time, and it will give you all of the
3 information as to what was purchased, how it was purchased.

4 Q. So showing you this document, sir, can you describe
5 what that is?

6 A. One of two things, it's a POS journal receipt. It's a
7 receipt. Customer gets a longer piece of paper, but similar
8 to just a receipt report.

9 Q. And how does that correspond to what we're looking at
10 at the screen?

11 A. Well, this is Register 59. Tells you what register,
12 tells you what transaction number, tells you the time, and
13 also it tells you the date, and how they paid for it -- in
14 this particular, paid cash.

15 Q. And so that information, how does that then correspond
16 to the other two items that are in front of you?

17 A. Well, it also tells you what was purchased. It tells
18 you by the UPC on the back of this, tells -- you have a UPC
19 that would match the transaction.

20 Q. And does that UPC number on the back of that tag
21 correspond to the journal report you have in front of you?

22 A. Yes, it does.

23 MR. CACCAVIELLO: The Commonwealth will ask that the
24 tag be marked as Exhibit Number 95 -- 85.

25 MR. FRANK: No objection.

1 THE COURT: Admitted.

2 (Exhibit No. 85, tag/folding star key set, marked)

3 MR. CACCAVIELLO: That the tool be marked as Exhibit
4 96 -- 86.

5 MR. FRANK: No objection.

6 THE COURT: Admitted.

7 (Exhibit No. 86, folding star key set, marked)

8 Q. (By Mr. Caccaviello) That the journal be marked as
9 Exhibit 87.

10 (Exhibit No. 87, Home Depot POS journal, marked)

11 THE COURT: Without objection, it is admitted.

12 Q. (By Mr. Caccaviello) Now, sir, you had described you
13 were able to actually from this footage, you can actually
14 track when those two customers came into the store, correct?

15 A. That's correct.

16 Q. (By Mr. Caccaviello) Directing your attention to the
17 screen, sir, how does this footage correspond to the prior
18 image concerning that transaction?

19 A. This is the outside parking lot, time down below, 6:45.

20 Q. Is there something happening in the footage, over the
21 seconds, particularly in this area?

22 A. Yes.

23 (Pause)

24 Q. (By Mr. Caccaviello) Can you tell what kind of vehicle
25 that appears to be?

1 A. It appears to be a Jeep.

2 (Whereupon, the video was viewed.)

3 Q. (By Mr. Caccaviello) And these two individuals here --

4 A. Yes.

5 Q. -- are those the -- do they appear to be the same
6 individuals that we just previously saw with that
7 transaction?

8 A. Yes, they are.

9 Q. Taking you to the next footage, sir, what is this area
10 you are looking at?

11 A. This area here is returns and that would be entrance.

12 Q. And how does that correspond to the previous image that
13 we just saw?

14 A. The two individuals from the parking lot are entering
15 through that entrance.

16 Q. Is that that right here?

17 A. That is that.

18 Q. Showing you -- and noting the time, what is this video
19 detecting?

20 A. Again, the Jeep, that would be when they arrived.

21 And this will be them departing, after completing the
22 transaction, and then going back to the Jeep.

23 Q. I just ask you to keep your eyes on the screen for a
24 few seconds.

25 (Pause)

1 Q. (By Mr. Caccaviello) And there, sir, are these the same
2 two individuals referred to earlier?

3 A. That's correct.

4 Q. And keeping your eye on the screen.

5 For the record, do they appear to be entering that same
6 Jeep?

7 A. They are.

8 MR. CACCAVIELLO: One moment, Judge.

9 (Pause)

10 MR. CACCAVIELLO: No further questions.

11 THE COURT: Mr. Frank, you may cross examine.

12 MR. FRANK: Thank you.

13 **CROSS EXAMINATION BY MR. FRANK:**

14 Q. Good afternoon. My name is Attorney Don Frank.

15 A. Hello.

16 Q. Sir, you've reviewed these tapes a number of times; is
17 that correct?

18 A. I reviewed them when I saved them and I reviewed them
19 to make sure, I try to -- and make sure everything is there.

20 Q. You collected them, you reviewed them then?

21 A. That's correct.

22 Q. You selected the tapes?

23 A. That's correct.

24 Q. And then you displayed them for investigators at least
25 once; is that correct?

1 A. I gave the disk to the police officer, told him what I
2 had, and then basically burned this and gave it to them,
3 yes.

4 Q. And you viewed them recently before testifying?

5 A. Today, yes.

6 Q. Did you --

7 MR. FRANK: If you could put up, please, the original
8 tape that you played.

9 Q. (By Mr. Frank) First of all, while that's getting set
10 up, sir, if I could just ask you at any point did you review
11 the tapes and did you see Mr. Veiovis and the other person,
12 go to the garden center?

13 A. No.

14 Q. And you didn't see them stop at any circular saw area
15 where power tools were sold, did you?

16 A. Did I see them stop at a power tool?

17 Q. Yes.

18 A. They were in the tool corral, which has power tools.

19 Q. They stopped at the tool corral where they have hand
20 saws; is that correct?

21 MR. FRANK: Excuse me. If we could stop there for one
22 moment.

23 (Whereupon, the video was viewed.)

24 Q. (By Mr. Frank) Those are hand saws that they are
25 looking at; is that correct or hatchets?

1 A. Yes, some.

2 Q. Okay.

3 MR. FRANK: And if we could continue, please.

4 (Whereupon, the video was viewed.)

5 Q. (By Mr. Frank) The person in the yellow (sic) as we're
6 watching this, that is not Mr. Veiovis; that is the other
7 person; is that correct?

8 A. Pardon?

9 Q. The person in green, that's not Mr. Veiovis. The
10 person in green is with Mr. Veiovis, correct?

11 A. Yes.

12 MR. FRANK: If we can stop it for just one moment.

13 (Whereupon, the video was viewed.)

14 Q. (By Mr. Frank) And the person, did you see him moving
15 his arm up and down? Could you see the person in the green
16 moving his arm up and down?

17 MR. FRANK: If we could go backward just to two
18 seconds, please.

19 (Whereupon, the video was viewed.)

20 Q. (By Mr. Frank) All right. Start it again, please, keep
21 your eye on the person in green.

22 You see him bending down, correct?

23 A. Yes.

24 Q. All right. And that's the hand tool corral, that's
25 where hand tools are; is that correct?

1 A. Well, the tool corral has all types of tools, power
2 tools, hand tools, chisels.

3 Q. All right. And the area that they are at --

4 MR. FRANK: If we could stop for just one moment.

5 (Pause)

6 Q. (By Mr. Frank) You don't know really what the setup is
7 at this particular Home Depot, do you?

8 A. Most tool corrals are set up similar. Again, trying to
9 remember what it was at that time --

10 Q. I'm showing you Exhibits 83 and 84. Do you see those
11 exhibits, sir?

12 All right. And these exhibits correspond with the
13 location of these two gentlemen, as best you can tell?

14 A. As best I could tell.

15 Q. And there doesn't appear to be any circular saws or
16 hand saws -- circular saws, excuse me.

17 A. No.

18 Q. It's all hammers and hatchets and things like that?

19 A. That's correct.

20 Q. Okay. Thank you.

21 MR. FRANK: If you could continue playing, please.

22 (Whereupon, the video was viewed.)

23 Q. (By Mr. Frank) You see the person in the green reaching
24 towards the corral?

25 A. Yes.

1 Q. And he picks something up; is that correct?

2 A. Looks like he may have.

3 Q. Okay. Well, I'm asking about the person in the green.

4 A. Right.

5 Q. You can't see what the person who is not in the green
6 is doing, right?

7 A. Yes, that's right.

8 He reaches in, he grabs something. I'm assuming he
9 did?

10 Q. By "he" we're referring to the person in green; is that
11 correct?

12 A. That's right.

13 (Whereupon, the video was viewed.)

14 Q. (By Mr. Frank) And, again, that's the person in the
15 green who seems to be reaching into the corral; is that
16 correct?

17 A. That's correct.

18 Q. And he's near the other person who you've identified as
19 Mr. Veiovis; is that correct?

20 A. I don't know their names.

21 Q. The other person who you identified as having had the
22 mohawk?

23 A. That's correct.

24 (Whereupon, the video was viewed.)

25 MR. FRANK: Thank you. That's all I need.

1 One moment. I'm sorry. If we can continue playing
2 just one moment.

3 (Whereupon, the video was viewed.)

4 Q. (By Mr. Frank) And, again, directing your attention,
5 they are over at the hand tool area. Do you see the guy in
6 the green picking something up?

7 A. Yes.

8 Q. And do you see him making some sort of chopping motion;
9 is that right?

10 A. Yes.

11 Q. And do you see Mr. Veiovis picking up some or the guy
12 in the mohawk picking something up and making a chopping
13 motion?

14 A. I do not.

15 Q. Just the person in the green?

16 A. That is correct.

17 MR. FRANK: Thank you very much. I have nothing
18 further

19 THE COURT: Redirect examination?

20 MR. CACCAVIELLO: Nothing further, Judge.

21 THE COURT: You are excused, Mr. Cariveau.
22 Thank you very much.

23 THE WITNESS: You're welcome.

24 (The witness stepped down.)

25 THE COURT: Ladies and gentlemen, we are going to break

1 for the day and I'm going to remind you of my cautionary
2 instructions. Don't discuss the case with anyone, including
3 among yourselves when you arrive here early in the morning.

4 Second, don't make any effort to gather any information
5 about the case, including any media reports, should there be
6 any.

7 Thank you for your patience and attention today.

8 You are excused.

9 (The jury exited at 3:59 p.m.)

10 THE COURT: Please be seated.

11 Mr. Frank, while I'm thinking of it, I am prepared to
12 give the jury an instruction regarding the limited purpose
13 for which they can use evidence of any affiliation with the
14 Hells Angels, either by Mr. Hall or your client. I assume
15 there will be some evidence forthcoming, at least his
16 attendance at the clubhouse on certain occasions.

17 Are you requesting that instruction?

18 MR. FRANK: Judge, I'm -- the answer is no, I'm not. I
19 am confident of the way the information will come in. I am
20 not requesting that instruction.

21 THE COURT: I assume at some point in time you will be
22 asking for a limiting instruction regarding your client's --
23 any evidence of your client's affiliation with the Aryan
24 Brotherhood, should I allow that evidence.

25 MR. FRANK: Yes.

1 THE COURT: All right.

2 MR. FRANK: I will just alert the Court I will be ready
3 tomorrow to argue the motion that we've been discussing, the
4 motion to suppress.

5 THE COURT: All right. Very well.

6 Anything on behalf of the Commonwealth, Mr. Capeless?

7 MR. CAPELESS: I'm sorry, Your Honor?

8 THE COURT: Anything on behalf of the Commonwealth,
9 scheduling or logistical in nature?

10 MR. CAPELESS: No, Your Honor.

11 THE COURT: All right. We are in recess.

12 (The Court exited at 4:00 p.m.)

13 (* * * * *)

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

I, ALICIA CAYODE KYLES, REGISTERED PROFESSIONAL REPORTER, REGISTERED MERIT REPORTER, OFFICIAL COURT STENOGRAPHER, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE ENTITLED MATTER.

I, ALICIA CAYODE KYLES, FURTHER CERTIFY THAT THE FOREGOING IS IN COMPLIANCE WITH THE ADMINISTRATIVE OFFICE OF THE TRIAL COURT DIRECTIVE ON TRANSCRIPT FORMAT, RESERVING MY RIGHT TO PROVIDE AN ELECTRONIC COPY, WHEN REQUESTED, AT THE COPY RATE AS PROVIDED BY THE STATUTE IN CHAPTER 221: SECTION 88, AS AMENDED.

I, ALICIA CAYODE KYLES, FURTHER CERTIFY THAT I NEITHER AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THE ACTION.

ALICIA CAYODE KYLES, RPR, RMR, OCR

Dated: December 19, 2014

50 State Street

Springfield, Massachusetts 01103

413-748-7624